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WHY THE SOLID SOUTH?

OR,

RECONSTRUCTION AND ITS RESULTS.

BY

HILARY A. HERBERT, M. C., Alabama; ZEBULON B. VANCE, U. S. Senator, North Carolina; JOHN J. HEMPHILL, M. C., South Carolina; HENRY G. TURNER, M. C., Georgia; SAMUEL PASCO, U. S. Senator, Florida; IRA P. JONES, Tennessee; ROBERT STILES, Esq., Virginia; O. S. LONG and WILLIAM L. WILSON, M. C., West Virginia; GEORGE G. VEST, U. S. Senator, Mo.; WILLIAM M. FISHBACK, Arkansas; ETHELBERT BARKSDALE, Ex-M. C., Miss.; CHARLES STEWART, M. C., Texas; B. J. SAGE, Louisiana.

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TO THE

BUSINESS MEN OF THE NORTH

THIS BOOK

IS RESPECTFULLY DEDICATED.

April 1, 1890.

HILARY A. HERBERT.

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PREFACE.

PERHAPS in no particular is the intellectual progress of this age more notable than in the ever increasing public demand for accurate history. In the phenomena of preceding ages we seek the causes of existing conditions. Of these existing conditions the most potent factor is to be found, of course, in the immediate past. The lessons drawn from recent experience will always, therefore, be the most valuable that history can teach; provided only we get the facts correctly before us. The difficulties when one writes of what happened only twenty and twenty-five years ago are twofold, resting both with the writer and the reader. The former must school himself to an impartial study of his topic that he may write correctly; the latter must endeavor to lay aside prejudice that he may judge fairly. The authors of the articles which comprise this volume, each agreed *when he undertook the* task assigned him to write as *impartially as possible,* to "understate rather than to

overstate facts." In like manner the reader is invited to judge calmly and dispassionately of the statements these writers have made, and draw his own inferences. He may possibly conclude that each has failed in greater or less degree in his effort to write dispassionately; but he will probably be more ready to overlook any exhibitions, if such there be, of temper, that ought to have been restrained, when, he remembers that we were all parts of what we relate.

"Quis talia fando
Myrmidonum, Dolopumve aut duri miles Ulixei,
Temperet a lacrimis?"

A complete history of reconstruction in all the states would fill many volumes. The plan of this work has been to condense into a chapter the controlling facts in relation to each state. It is hoped that we may thus arrest the attention of men who can devote to public affairs only a few hours of their time.

Each article is signed by its author, who thus becomes directly responsible for the truth of his statements.

The parallelism throughout the history of all these *states, whether* in lines of retrogression or of pro*gress, furnishes* a striking illustration of the truism —*Like causes* produce like effects.

This work has not been undertaken with any such impracticable purpose as agitating for the repeal of the Fifteenth Amendment, or for the deportation of the negro. Its object is to show to the public, and more especially to those business men of the North, who have made investments in the South, or who have trade relations with their Southern fellow-citizens, the consequences which once followed an interference in the domestic affairs of certain states by those, who either did not understand the situation or were reckless of results. A thorough comprehension of the facts we attempt to portray will, it is believed, at least aid the reader in deciding what ought not to be done by the Federal Government. Even this much will be of value in the solution of one of the pressing problems of to-day, for, however it may be in morals, in statesmanship, it is undoubtedly true that sins of commission are generally more fatal than sins of omission.

HILARY A. HERBERT.

April 1, 1890.

WHY THE SOLID SOUTH?

OR,

RECONSTRUCTION AND ITS RESULTS.

CHAPTER I.

RECONSTRUCTION AT WASHINGTON.

UNDER ABRAHAM LINCOLN.

THE death of Abraham Lincoln was an appalling calamity—especially to the South. Had the crazy assassin withheld his hand, reconstruction could never have been formulated, as it was, into the Acts of March 2d and March 23d, 1867.

Mr. Lincoln's leading thought in the conduct of the war was the preservation of the Government of the fathers; and he took issue squarely with those who, like Mr. Sumner, were seeking to take advantage of the times and "change this Government from its original form and make it a strong centralized power."* He believed the Government to be, as Chief Justice Chase afterwards defined it, in Texas *vs.* White, "an indestructible union composed of indestructible states." Upon this idea of the constitution he based his theory of restoration,—a theory which, at the time of his death, was well known, though it appears to have since been industriously forgotten. This theory was, that the insurrectionary states, notwithstanding the war, still existed as *states—that they* were never out of the Union *and were always subject to* the constitution. Hence it

* *Nicolay and Hay's* "Lincoln."—*Century*, Oct., 1889.

followed that those people of these several states, who w entitled to vote by the laws existing at the date of the tempted acts of secession, had, when they returned to t allegiance and were pardoned, the power of reconstruc in their own hands. On this theory President Lin aided the people to set up state governments in Tenne Louisiana and Arkansas—all without any aid from Cong

But from the beginning there were eminent Republi in Congress who denied the authority of the Presiden "intermeddle," as they called it, in this business. early as 1861, Mr. Stevens, of Pennsylvania, had nounced the doctrine, that the constitution and laws w suspended where they could not be enforced; that those had defied them could not invoke their protection, and Congress could legislate for such rebellious territory out of and without regard to the Constitution.

Mr. Sumner laid down the proposition, in resolut introduced February 11th, 1862, that, by attempting secede, a state had committed suicide, and its soil become territory subject to the supreme control of C gress. Both of these theories, which did not differ in res denied to the President any power whatever in the premis

But Mr. Lincoln seems always to have stood on the decl tion made by Congress in July, 1861: that the war being waged "to defend the Constitution and all laws in p suance thereof, and to preserve the union, with all the dign equality and rights of the several states unimpaired; tha *soon as these objects were accomplished, the war ought cease,*" &c.

Pursuing steadily the spirit of these resolutions, e down to the day of his unhappy death, reconstruction practiced by him was, simply, restoration of civil autl ity in the insurgent, but still existent states by the pe thereof, aided by the military power of the United States.

More than two years after this question of power begun to be mooted in Congress the President formul *and communicated to that* body, in his message of Dec *ber 8th, 1863, the plan* he proposed thereafter to fol *n no material particular* did it differ from the

upon which he had theretofore acted. He said: "Looking now to the *present and future*, and with reference to a resumption of the national authority within the states wherein that authority has been suspended, I have thought fit to issue a proclamation, a copy of which is herewith transmitted."

In the proclamation, embracing the plan, he offers pardon to all who will swear "henceforth" to support the Constitution of the United States, &c., and proclaims that when those who, accepting this amnesty, shall have taken the oath of allegiance, each "*being a qualified voter by the election laws of the state, existing immediately before the so-called act of secession, and excluding all others*, shall re-establish a state government, which shall be republican and in no wise contravening said oath; such *shall be recognized as the true government of the state*," etc., etc.

This was President Lincoln's plan for restoring the insurgent states to the Union; it left the question of suffrage entirely in the hands of those who were qualified to vote under the laws existing at the date of secession. It was precisely this proposition—viz., that each insurgent state, at the time of rehabilitation, must decide for itself whether it would adopt negro suffrage—that angered the Republicans in Congress when acted on by Andrew Johnson; and culminated in the impeachment proceedings.

But Abraham Lincoln and Andrew Johnson were two different persons. Johnson was pugnacious—seeking always to beat down his adversary and never to conciliate. Lincoln, on the other hand, never needlessly antagonized those who could be won to his views, though he was accustomed to adhere to his matured opinions with inflexible purpose; as we shall see he did in this case, in the face of the fiercest opposition.

When this message of December, 1863, went in, many of the Republican leaders were claiming for Congress exclusive jurisdiction over the question of reconstruction under the clause of the Constitution which declares that: "The United States shall guarantee to every State in this Union a republican *form of government.*" The counter-claim by the President, *that he could aid the people to set up governments for themselves, seemed a challenge.*

Congress debated the question at length, and finally, in July, 1864, passed, by a small majority in each House, a bill "to guarantee to certain states a republican form of government."

This bill did not meet the wishes of extremists, because it did not give the ballot to the negro; but, if it became law, it would be a step gained for the extremists. It asserted the jurisdiction of Congress and provided expressly that the President should recognize by proclamation the state governments established under it, only "after obtaining the consent of Congress." The President refused to approve the bill and defeated it by a "pocket veto." July 9th he made a public statement, giving reasons for his course. The bill, he said, was received by him only one hour before the adjournment of Congress, and, among other things, he thought that the system of restoration it provided was "one very proper for the loyal *people of any state choosing to adopt it.*" But he clearly was opposed to forcing it on any state by law, as he went on to say that he would at all times be "prepared to give the Executive aid and assistance to any such people;" that is, people who should "choose to adopt it," the Congressional plan, "when the insurrection should be suppressed," etc. Senator Wade and Representative Henry Winter Davis responded in an angry protest. To the admirers of Mr. Lincoln this document, dated in July, 1864, contains charges that are astounding. After stating that the signers had read the proclamation "without surprise, but not without indignation," the protest contends that want of time for examination was a false pretense. "Ignorance of its contents is out of the question," says the manifesto; and then argues that Mr. Lincoln was cognizant of a plan by which "the bill would be staved off in the Senate to a period too late in the session to require the President to veto it in order to defeat it, and that he," the President, "would retain the bill if necessary, and thereby defeat it."

The protest further says: "The President, by preventing *this* bill from becoming a law, holds the electoral votes of the *rebel states at the dictation* of his personal ambition," and *complains that the will* of Congress is to be "held for nought *unless the loyal people* of the rebel states choose to adopt it."

It also calls Mr. Lincoln's action "a studied outrage on the legislative rights of the people."

Here the issue was squarely made whether the President was to restore or the Congress to reconstruct the insurgent states.

The President went on his way.

Long after his plan of restoration had been published to the world his party, in convention assembled, had approved his "practical wisdom," "unselfish patriotism" and "unswerving fidelity to the Constitution," and now, in November, 1864, on this platform, Mr. Lincoln received 212 electoral votes to 21 for George B. McClellan.

On the 5th of December, 1864, the President sent in his last annual message, which was without any allusion to the question of reconstruction, unless it was in his mind when, speaking of the insurgents, he said: "They can at any moment have peace simply by laying down their arms and submitting to the national authority under the Constitution;" and its closing words possibly had reference to the same subject: "In stating a single condition of peace, I mean to say that the war will cease on the part of the Government whenever it shall have ceased on the part of those who began it."

It is very clear that up to this point Mr. Lincoln was determined never to become a party to any political war upon the Southern states waged for the purpose of compelling them to range under a political banner.

Congress, during the session that ended 1864–65, either did not care or did not dare to insist on any reassertion of its right to reconstruct. On the contrary, seeing, as it undoubtedly did, that the Confederacy was about to collapse, it adjourned on the 4th of March, leaving Mr. Lincoln an open field for his policy of restoration. Every member of that Congress knew what that policy was. It meant the *promptest possible* restoration of civil authority in the states by the aid of Executive power. And so, now, shortly before his death, the President went on to prepare, or cause to be prepared, the proclamation for the restoration of North Carolina, which was issued by his successor, Andrew Johnson, May 29th, 1865, and was the basis of all Mr. Johnson's subsequent work in the field.

Mr. McCulloch, Secretary of the Treasury during the last few weeks of Lincoln's and throughout the whole of Johnson's administration, says, in his "Men and Measures of Half a Century," p. 378: "The very same instrument for restoring the national authority over North Carolina and placing her where she stood before her attempted secession, which had been approved by Mr. Lincoln, was, by Mr. Stanton, presented at the first Cabinet meeting which was held at the Executive Mansion after Mr. Lincoln's death, and, having been carefully considered at two or three meetings, was adopted as the reconstruction policy of the Administration."

On the 18th day of July, 1867, Gen. Grant, before the Reconstruction Committee, said that, according to his recollection, "the very paper (the North Carolina proclamation) which I heard read twice while Mr. Lincoln was President was the one which was carried right through," by President Johnson.

In the face of these facts it is remarkable that intelligent public opinion should seem to have since settled down to the conclusion that the restoration policy of Andrew Johnson was a departure from that of Abraham Lincoln. Upon the all important and controlling point, that the people of each state were to settle for themselves the question of suffrage, this being a constitutional right they had not lost, the views of Lincoln and Johnson were identical.

It would seem that Mr. Blaine holds a different opinion. He says, in discussing the North Carolina proclamation as issued by Johnson, vol. II. p. 77, "Twenty Years in Congress":

"It was specially provided in the Proclamation that in choosing delegates to any state convention no person shall be qualified as an elector or eligible as a member, unless he shall have previously taken the prescribed oath of allegiance and unless he shall also possess the qualifications of a voter as defined under the Constitution and laws of North Carolina, as they existed on the 20th May, 1861, immediately prior to the so-called ordinance of secession. Mr. Lincoln had in mind, *as was shown by his* letter to Gov. Hahn, of Louisiana, to *try the experiment of* negro suffrage, beginning with those who *had served in the Union* Army and who could read and write; *but President Johnson's plan* confined the suffrage to whit

men, by prescribing the same qualifications as required in North Carolina before the war."

Not only was this North Carolina proclamation approved by Mr. Lincoln; not only was it consistent with the theory he had so long maintained against such fierce opposition; not only did it leave the question of suffrage exactly where it was left by the message of December 8th, 1863; but the very letter referred to by Mr. Blaine, to show a difference between the views of the two statesmen, conclusively proves, when quoted fully, that they both believed that, as was provided in the proclamation Mr. Blaine was discussing, suffrage was a matter for the states to regulate.

Mr. Lincoln's letter to Gov. Hahn says: "Now you are about to have *a convention which, among other things, will probably define the elective franchise, I barely suggest, for your private consideration*, whether some of the colored people may not be let in, as, for instance, the very intelligent, and especially those who have fought gallantly in our ranks.

"*But this is only a suggestion, not to the public, but to you alone.*"

Andrew Johnson made a similar suggestion when he wrote, August 15th, 1865, to Gov. Sharkey, of Mississippi: "If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary and set an example that other states will follow."

The difference was that Andrew Johnson did not say: "This is only a suggestion, not to the public, but *to you alone.*"

The letter to Gov. Hahn does show that Mr. Lincoln would have been glad to have the states, in regulating the suffrage, make certain exceptions in favor of the negro—exceptions that would not probably embrace ten per cent. of the colored male adults in any Southern state, and could therefore have done no harm—but the letter also clearly shows that he thought it *would be an unwarrantable* interference with the rights of the *state for the President of* the United States to do more tha*make a private suggestion* about the matter. That the wri

of this letter would ever have consented to put negro suffrage upon the states by a law of Congress is inconceivable; unless there had come some radical change in his opinions; and this cannot be shown.

If no better evidence can be adduced than this offered by Mr. Blaine to show a difference between the plans of two Presidents, and we have seen none, then we are authorized to conclude that the Presidential plan remained the same, from the time it was inaugurated by Mr. Lincoln, in 1862, down to the date when, in March, 1867, Congress concluded to destroy the state governments, which the people, acting in accordance with that plan, had set up for themselves—some of them under Lincoln's and others under Johnson's supervision.

In discussing the motives which influenced Congress in refusing to recognize and in finally overthrowing these governments and demanding constitutional amendments, a great American law writer, Judge J. Clark Hare, himself a Republican in politics, in his recent work on American Constitutional Law p. 747, says: "When the South was prostrated by the Rebellion, the dominant party resolved on measures that would tend to keep them in power and might be necessary for the protection of the colored race."

The author, pursuing, as he declares in his preface, "jurisprudence with an eye single to truth," here affirms that the controlling motive of Congress in reconstructing the states and the constitution was partisan; with as much confidence as if his statement were based on a decision of the Supreme Court.

ANDREW JOHNSON AND RESTORATION.

Congress adjourned March 4th, 1865, not to convene again until the first Monday in December, unless called to meet in extra session.

Johnson was inaugurated President on the 14th of April, 1865, just as the Confederacy fell. As he intended to carry on the work of restoration upon the lines laid down by his great predecessor, he needed no aid from Congress; and so it seemed to be a happy contingency that it was not in session. In his Cabinet were Seward, McCulloch, Stanton, Welles,

Dennison, Harlan and Speed,—the same strong men gathered around his council board by the late President, and all still in favor of the Lincoln plan of restoration.

The sudden collapse of the Confederacy was remarkable. Within forty days from the date when General Johnston gave up his sword there was not a single Confederate soldier in arms. The surrender was complete. Submission to the authority of the United States was everywhere absolute. Courts were established; the postal service rehabilitated; tax collectors and tax assessors went about their business.

On the 29th of May, President Johnson issued the proclamation that had been approved by President Lincoln for the restoration of civil government of North Carolina. William H. Holden was appointed provisional governor, with authority to call a convention to frame a constitution of government for the State. Proclamations, similar to that for North Carolina, followed for South Carolina, Georgia, Alabama, Florida and other States.

The people of the late Confederate States accepted with readiness the Presidential policy of reconstruction. In fact, the unanimity with which those who had waged such a desperate conflict against the Union now took again the oath of allegiance to the Constitution of the United States was a phenomenon that startled the Republican politicians; and it must have inspired distrust in the minds of many honest Northern voters. But it was all in the utmost good faith; and it was not strange.

From the days when the agitation of the slavery question began to divide the country into two sections, the South always talked more about and cared more for the Constitution, which it looked to for the protection of its property rights in slaves, than did the North, which relied on its majority of voters to maintain whatever views of public policy it might happen to entertain. Thus it came about that the South was as devoted to the Constitution as was the North uncompromising for the Union. When, therefore, the Southern states had seceded, the *Constitution of the United States* became the constitution of *the Confederate States*, with such changes only as would emphasize and make still clearer the reserved powers of the states

It is simply history to say, that the people of the Confederate States looked upon themselves, during the late war, as fighting to perpetuate the Constitution of their fathers. Slavery they deemed merely an incident. Secession they regarded simply as a method by which they could place themselves in position to forever maintain inviolate the Constitution of 1789. Nothing but the spirit of liberty, however mistaken it may have been, could have animated slave-holder and non-slave-holder to make side by side that terrible struggle of four years for the Confederacy, just as similar noble impulses animated the people of the Northern States to pour out so much of their blood and treasure for the Union.

When the Confederacy had died, and independence was no longer possible, slavery, it was apparent, had gone down forever. Secession, too, was dead. These two obstacles removed, the pathway to progress in the Union seemed open, and Southern people were invited now by Johnson, as they had been by Lincoln, to come back and claim the protection of the Constitution under which they were born. They had never, in fact, lived under any other.

And now it is quite clear how the Southern people could and did attempt to resume their places in the Union with far greater unanimity than prevailed among them when attempting to go out.

Shortly after the assembling of Congress in December, 1865, the President was able to report that the people of North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas and Tennessee had reorganized their State governments. The Thirteenth Amendment to the Constitution of the United States, abolishing slavery, had been adopted by twenty-seven states, the requisite three-fourths of the whole number, the reconstructed government of five of the seceding states having been counted as part of the twenty-seven.

The conventions of the seceding states had all repealed or declared null and void the ordinances of secession. Every office in North Carolina, South Carolina, Alabama, Georgia and Louisiana, legislative, executive and judicial, was filled either by an original Union man or by one who, having been pardoned, had taken the oath of allegiance to the United States

The laws were in full operation. Senators and Representatives from most of these states were already in Washington asking to be seated in Congress, and the work of restoration, so far as it lay in the hands of the people of these states, was completed. The report to the President made by General Grant, December 18th, 1865, was a fair statement of the condition at that time of public sentiment in the South. "I am satisfied the mass of thinking men in the South accept the present situation of affairs in good faith. The questions which have hitherto divided the sentiment of the people of the two sections, slavery and state rights, or the right of the State to secede from the Union, they regard as having been settled forever by the highest tribunal, that of arms, that man can resort to. I was pleased to learn from the leading men whom I met that they not only accepted the decision arrived at as final, but now the smoke of battle has cleared away and time has been given for reflection, that the decision has been a fortunate one for the whole country, they receiving like benefits from it with those who opposed them in the field and in the council."

But by the new State Constitutions, which the Southern people had made for themselves, suffrage was confined to white men, just as it was in Connecticut, Ohio, Michigan and other Northern States; and, too, the Senators and Representatives-elect now asking to represent these late Confederate States were mostly Democrats.

This was the situation when Congress convened in December, 1865. That body was largely Republican in both branches. Would this Republican Congress admit these Democratic States? If not, upon what ground would the refusal be based?

CONGRESS—1865-66—POLITICS.

The first session of the Thirty-ninth Congress began December 4, 1865. The Speaker of the House of Representatives, Mr. Schuyler Colfax, upon accepting the office, said:

"The Thirty-eighth Congress closed its constitutional existence with the storm-cloud of war still hovering over us; and after nine months' absence, Congress resumes its legislative authority in these council halls, rejoicing that from shore to shore in our land there is peace."

The people of the Southern states had reconstructed their Governments upon the idea that peace had come; but this very same House of Representatives, which now began with this declaration of its Speaker, that peace reigned supreme, was to make war upon the state governments of the South, justifying itself upon the theory that the war was not over. The Presidential plan was to be disregarded. Congress, in the language of Mr. Thad. Stevens, henceforth its accepted leader, was to "take no account of the aggregation of white-washed rebels who, without any legal authority, have assembled in the capitals of the late rebel States and simulated legislative bodies."

However completely this generation may have forgotten that Johnson's policy was Lincoln's, that Congress knew it well, for early in that session Mr. Sherman said in debate:

"When Mr. Johnson came into power he found the rebellion substantially subdued. What did he do? His first act was to retain in his confidence and in his councils every member of the Cabinet of Abraham Lincoln; and, so far as we know, every measure adopted by Andrew Johnson has had the approval and sanction of that Cabinet."

There can be but little doubt that if Mr. Lincoln had lived, he would, during 1865, have progressed at least as rapidly with his plan of reconstruction as did President Johnson; he was always anxious to put an end to military control, and the successful ending of the war would have left him the most popular man this country has ever seen since Washington. Yet even Mr. Lincoln could not have avoided a struggle with Congress.*

In December, 1865, Republican leaders felt that a crisis in the history of their party had come; and many of them were ready to go to any extreme. Mr. Stevens said on the floor of the House of Representatives, that if the late Confederate States were admitted to representation in Congress under the Presidential plan, without any changes in the basis of representation, these states, with the Democrats "that would be

*Mr. Stanton, near the close of his life, looking back over those exciting times, declared that "If Mr. Lincoln had lived, he would have had a hard time with his party, as he would have been at odds with it on Reconstruction."—McCulloch, "Men and Measures."

elected in the best of times at the North," would control the country; and he said, on the 14th December, 1865:

"According to my judgment, they (the insurrectionary states) ought never to be recognized as capable of acting in the Union or of being counted as valid states until the Constitution shall have been so amended as to make it what its makers intended; and *so as to secure perpetual ascendency to the party of the Union.*"

Mr. Stevens had two plans: first, to reduce the representation to which the late slave-holding states were entitled under the Constitution; secondly, to enfranchise blacks and disfranchise whites.

But the mind of the Northern voter was not yet ready for negro suffrage. Pennsylvania, Ohio and other States still denied it. Connecticut, in 1865, gave a majority against it of 6,272. Even in October, 1867, Ohio gave a constitutional majority against colored suffrage of 50,629; and so late as November, 1867, Kansas was against negro suffrage by a majority of 8,938; while Minnesota adhered to the white basis by a majority of 1,298. It was perfectly clear that the people were not now, in the winter of 1865–66, prepared to endorse the extreme measures that were being mooted at Washington.

What Congress would do was an interesting problem. Mr. Thad. Stevens, however, seems never to have doubted how it would be solved. He predicted that public sentiment, within less than two years, would come up to his position. But to the accomplishment of such a result time and work were necessary. As a first step, on the 4th of December, 1865, the very day the Thirty-ninth Congress was organized, Mr. Stevens introduced and passed in the House, by a party vote of 133 to 36, under the previous question, without debate, a resolution to provide for a joint committeee of fifteen to report on the condition of "the states which formed the so-called Confederate States of America." The Senate assented at once to the formation of the joint committee, and afterwards, on the 23d of February, 1866, finally agreed to a concurrent resolution, *which had been the* second proposition of Mr. *Stevens' original resolution, that* neither House should admit

any member from the late insurrectionary states until the report of the joint committee, on reconstruction, thereafter to be made, should be finally acted on.

Thus it was settled, that the people most vitally interested in the two great problems, the basis of representation and the qualification of voters, were to have no part, in Congress, at least, in their solution. But more than that, here was time gained within which the effort could be made to bring the Northern mind up to Mr. Stevens' position.

The joint resolution refusing admittance to Southern Representatives and Senators was not passed without strenuous opposition. It was an open declaration of war upon the Presidential plan. Mr. Raymond, of New York, a distinguished Republican, made a great speech in defence of the President's policy. Mr. Shellabarger, of Ohio, to break the force of Mr. Raymond's argument, talked thus:

"They framed iniquity and universal murder into law . . . . Their pirates burned your unarmed commerce upon every sea. They carved the bones of your dead heroes into ornaments, and drank from goblets made out of their skulls. They poisoned your fountains, put mines under your soldiers' prisons; organized bands whose leaders were concealed in your homes; and commissions ordered the torch and yellow fever to be carried to your cities, and to your women and children. They planned one universal bonfire of the North from Lake Ontario to the Missouri," etc., etc.

The Honorable Henry Wilson, in his "History of Reconstruction," quotes this and many other similar passionate appeals, intending them, of course, as fair specimens of the arguments which brought about the re-construction of Federal and state Constitutions.

Early in this session Congress sent to the President a civil rights bill conferring many rights, not including suffrage, however, upon emancipated slaves. This Mr. Johnson vetoed on the ground that it was unconstitutional; and, according *to decisions since* made by the Supreme Court, it was. The *veto of this bill* greatly aggravated the quarrel, which was *already open and bitter* between the President and Congress. *It also lost Mr. Johnson* the support of Messrs. Dennison,

Harlan and Speed, who resigned from the Cabinet. Mr. Stanton, too, became an avowed enemy of the President and his policy. But he did not resign. He was advised by Mr. Sumner and others to "stick;" and he remained in the Cabinet as an obstructionist. This was utterly without precedent, and serves well to illustrate the height to which party passion had risen. Another reason for the break in the Cabinet, in all probability, was that Southern Democrats very naturally were supporting President Johnson's policy. Senator Wilson's "History of Reconstruction" is full of eloquent invectives launched in the House and Senate at Andrew Johnson because he was supported by Democrats, "rebels," "copperheads," "traitors," "importers of poisoned clothing," etc., etc.

The memorable words of Mr. Lincoln in his last annual message were: "The war will cease on the part of the Government whenever it shall have ceased on the part of those who began it." But Mr. Lincoln had passed away and his words had lost their power. Mr. Blaine, in his "Twenty Years," even mentions it as a cause of offence that those, who were in arms against the Government when Congress adjourned in March, 1865, were, some of them, at the hotels in Washington, demanding to be admitted to seats in the Congress which met in December. The inflammatory debates in the first session of the Thirty-ninth Congress were preliminary to the canvass for members of Congress to be elected in the autumn of 1866. No factor in those elections proved more potential than the rejection by Southern Legislatures of the pending Fourteenth Amendment to the Constitution of the United States. The clauses on which its acceptance or rejection turned in these assemblies were: Section II., which apportioned Representatives in Congress upon the basis of the voting population; and Section III., which provided that no person should hold office under the United States who, having taken an oath as a Federal or state officer to support the Constitution, had subsequently engaged in the war against the Union.

It was claimed by the friends of the Amendment to be especially *unfair that the South* should have representation for *its freedmen and not give them* the ballot. The right, however, *of a State to have* representation for all its free inhabit

ants, whether voters or not, was secured by the Constitutio and that instrument even allowed three-fifths representatic for slaves. New York, Ohio and other states denied t ballot to free negroes; some states excluded by proper qualifications and others by educational tests, yet all enjoy representation for all their peoples.

The reply to this was that the Constitution ought to amended because the South would now have, if negroes we denied the ballot, a larger proportion of non-voters than t North. Southern people were slow to see that this was go reason for change in the Constitution, especially as they b lieved they were already entitled to representation, and co ceived that they ought to have a voice in proposing as well in the ratification of amendments. Five of the restored stat had already ratified the Thirteenth Amendment, and su ratification had been counted valid. If they were states, th were certainly entitled to representation. So they claimed.

It was perhaps imprudent for Southern people at that tir to undertake to chop logic with their conquerors, or indeed claim any rights at all—as the net results of their insisten were, that they were called "impudent claimants" by t Republican Convention at Pittsburgh, and indeed everywhe in the Republican press.

The insuperable objection, however, to the ratification the Fourteenth Amendment was to be found in the clau which required the people of the late Confederate States disfranchise their own leaders, to brand with dishonor tho who had led them in peace and in war.

The rejection of this amendment at the South great strengthened the Republican position; because the Nort looking at it from a different stand-point, thought the propos tion a fair one. If any among those who proposed the amen ment intended it should be rejected, it was s rewdly devise if it was not intended to procure its own rejection, then it w clumsily contrived.

THE FR. DMEN'S BUREAU.

Even before the close of the war public sentiment h *demanded some provision* for the protection of the liber

slaves, who everywhere came flocking into the Union lines. The result was the establishment by law, March 3d, 1865, of a Freedmen's Bureau, which was speedily extended, after hostilities had ceased, into all the late Confederate States. The law made the agents of this Bureau guardians of freedmen, with power to make their contracts, settle their disputes with employers and care for them generally. The position of Bureau agent was one of power and responsibility, capable of being used beneficently, and sometimes, no doubt, it was; but these officials were subjected to great temptation.

Many people, who believed that the newly emancipated slave needed a guardian to take care of him, believed also that, if he only had the ballot, he could take care of himself and the country, too. In fact, the sentiment in favor of universal suffrage was already strong, even in the spring of 1865; and it was natural for every Bureau agent, who might have a turn for politics, to conclude that, with the Bureau's help, Mr. Stevens and his friends might eventually succeed in giving the negro the ballot. The Bureau agent was "the next friend" of the negro. With negro suffrage, this official's fortune was made. Without it, of course, this stranger had no hope of office in the South. It was not therefore to his interest, if he had political aspirations, that there should be peace between the races.

From conscientious men, connected with this Bureau, General Grant obtained the information upon which he based the opinion, given to the President in the report already quoted from, that "*the belief widely spread among the freedmen of the Southern states that the lands of their former owners will, at least in part, be divided among them, has come from the agents of this Bureau.* This belief is seriously interfering with the willingness of the freedmen *to make contracts for the coming year.*" And he further said: "Many, perhaps the majority, of the agents of the Freedmen's Bureau advise the freedmen that by their own industry they must expect to live. . . . *In some instances, I* am sorry to say, the freedman's *mind does not seem to be* disabused of the idea that he has a *right to live without* care or provision for the future. Th

effect of the belief in the division of lands is idleness and accumulation in camps, towns and cities."

The first lesson in the horn-book of liberty for the freedman obviously was, that in the sweat of his face he must earn his bread—a law unto all men since the days of Adam. It is a sad commentary on the workings of the Bureau, that the best thing General Grant could say of its agents was, that "many, and *perhaps* a majority of them," did so advise. If these officials were really responsible, as General Grant believed, for the demoralized labor condition at the South—and their power over the freedmen is beyond all question—then they were, in fact, organizing chaos where their mission was peace and good order.

Nearly every one of these agents, who remained South after reconstruction, was a candidate for office; and many actually became Governors, Judges, Legislators, Congressmen, Postmasters, Revenue officers, etc.

Such a situation as confronted Southern Legislatures in the fall and early winter of 1865 was never before witnessed in America. Prior to 1861 the laws to compel people to industrious habits were not generally so stringent in the South as in the North. This resulted partly from slavery and partly from the easy conditions of life in a mild climate. There were no laws that met the new situation. New and stringent statutes were passed to prevent vagrancy and idleness. There is not space here to discuss these laws. They will be treated of in a subsequent chapter and compared with statutes then in force in Northern states. Suffice it to say now, they did not merit the odium visited upon them by many honest Northern voters, who, not understanding the situation, were led to believe them nothing short of an effort to re-enslave the negro, when their purpose was simply to counteract the teachings that had demoralized the freedman and compel him to industrious habits.

THE COMMITTEE OF FIFTEEN.

The passage of the concurrent resolution in December 1865, to inquire into the condition of the late Confederate

States meant open hospitality to the Presidential plan. Having declared war, the dominant party of course exercised great care in selecting members to serve on the committee which was to make this inquiry. Mr. Blaine (Vol. II., p. 127) says:

"It was foreseen that in an especial degree the fortunes of the Republican party would be in the keeping of the fifteen men who might be chosen." Speaker Colfax and the appointing power in the Senate put on the committee twelve Republicans and only three Democrats, one from the Senate and two from the House.

The field from which testimony was to be drawn was the unrepresented South. On the sub-committee which took testimony as to Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi and Arkansas, there was not a Democrat to call or to question a witness. The only hope of fair play lay in the magnanimity or sense of justice of men who had already voted to refuse admission to the Southern members and who were placed upon the committee with the expectation, as Mr. Blaine has indicated, that they would take care of the Republican party. There is not space here to discuss the evidence of the witnesses, who chose or were chosen to come before these gentlemen. It consists of hundreds of pages of speculative testimony, hearsay, etc.

The crimes committed, in the most peaceful times, within eighteen consecutive months, among any population of eight millions, would, if industriously arrayed, make a fearful record. To make that arraignment of the late Confederate States was the task to which this able committee addressed itself in 1866.

The situation in these states was peculiar. When the surviving soldiers returned from the field, around their desolated homes they found four millions of slaves suddenly manumitted. The returning soldiers were themselves more or less affected by that demoralization which is an unfailing consequence of protracted war. The negroes were demoralized by their newly-found freedom. They turned, for the most part, a deaf ear to the advice of their old masters and listened with avidity to the tales that were bruited about, said to hav

come from the stranger friends who had freed them, to the effect that the lands of their rebel masters were to be confiscated and divided among them. It is impossible that, under such circumstances, however earnestly all good citizens might strive for the general good, there should not have been friction between the races. Yet, notwithstanding the extraordinary and unprecedented conditions there was, to General Grant, nothing, as his report already quoted shows, in the situation there in the fall of 1865, that was not creditable to the masses of the people. General Grant was not in politics. The gentlemen of the committee of fifteen were; and a few words as to the treatment of one state, as a sample, will suffice to show that the methods employed were such as to allow no rational expectation of reaching correct conclusions. As to the condition in Alabama only five persons, who claimed to be citizens, were examined. These were all Republican politicians. The testimony of each was bitterly partisan; under the government of the state as it then existed, no one of these witnesses could hope for official preferment. In his testimony each was striving for the overthrow of his existing state government, and the setting up of some such institutions as followed under Congressional reconstruction. When this reconstruction had finally taken place, the first of these five witnesses became Governor of his state; the second became a Senator in Congress; the third secured a life position in one of the departments at Washington; the fourth became a circuit judge in Alabama, and the fifth a judge of the Supreme Court of the District of Columbia—all as Republicans. There was no Democrat in the sub-committee, which examined these gentlemen, to cross-examine them; and not a citizen of Alabama was called before that sub-committee to answer or explain their evidence. Of the report of this committee, based upon evidence taken by such methods, Mr. Blaine permits himself to say (Vol. II. p. 9): "That report is to be taken as an absolutely truthful picture of the Southern states *at that time.*"

The first session of the Thirty-ninth Congress now came to *close. Besides the* passage, over the President's objections, *a still more radical* Freedmen's Bureau Bill than that de-

feated by his first veto, it had accomplished little else than to drive most of the moderate Republicans into the ranks of the extremists. On adjournment, members went into the canvass at home. The late Confederate States were held out of the Union; and their status was to be determined by elections at the North. The rejection of the Fourteenth Amendment, the report of the joint committee of fifteen, the testimony taken by that committee, the evidence furnished by agents of the Freedmen's Bureau, the vetoes and the alleged treachery to the Republican party of Andrew Johnson—these were the material of the canvass. Mr. Johnson had adhered rigidly to Abraham Lincoln's theory of restoration. That theory the Republicans now were assailing and Johnson was on trial as an apostate.

CONGRESS, 1866–67.

The Republicans came back to the last session of the Thirty-ninth Congress, which began on the first Monday in December, 1866, exulting in a great victory. Never since the beginning of the Government had there been such a campaign during an "off year." Though no President was to be elected, four national conventions had been held; the air was filled with inflammatory speeches and the dying embers of the passions engendered by the civil war were fanned into flames.

The result of the election was a majority, in the Fortieth Congress, of 31 for the Republicans in the Senate and 94 in the House. The Republicans were greatly elated. President Johnson, who was still ready with his vetoes, was the only obstacle in their path. It was proposed to remove him by impeachment. As put by Mr. Shuckers, himself a Republican, in his life of C. J. Chase, (p. 547) the Republican leaders at this juncture "felt the vast importance of the Presidential patronage; many of them felt, too, that according to the maxim that to the victors belong the spoils, the Republican party *was rightfully* entitled to the Federal patronage; *and they determined* to get possession of it. There was *but one method and that* was by impeachment and removal *of the President.*"

On the 7th of January, 1867, Mr. Loan offered a resolution that, "for the purpose of securing the fruits of the victories gained," impeachment of the President was necessary. On the same day Mr. Kelso, also "for the purpose of securing the fruits of the victories gained," introduced impeachment resolutions. Then Mr. Ashley moved and carried resolutions for the appointment of a committee to inquire for grounds on which the President could be impeached. No proof was offered; the committee was to hunt for proof. The President's "bank account was examined. His private conduct in Washington was carefully scrutinized. Men were employed to investigate his public and private character in Tennessee. But nothing was found to his discredit." (McCulloch, p. 394.) Notwithstanding the futility of this effort, in one form or another, the impeachment programme survived until the next winter, when President Johnson furnished an excuse in the removal of Mr. Stanton from the Secretaryship of War, and the impeachment proceedings were then pressed to a conclusion."

It is now well understood that no legal grounds for the impeachment existed; and even at that day, in the height of party passion, there were seven Republican Senators, the exact number necessary to save the President who, in spite of party pressure, voted "not guilty" at the trial.

The excitement prevailing in the country at large, at the time of the impeachment, may be judged of by the following editorial paragraph from the Harrisburg (Penna.) *State Guard:* "Just as sure as we believe the blood of Abraham Lincoln is on the soul of Andrew Johnson, so certain are we that he contemplates drenching the country once more in the blood of civil war."

The effort to impeach the President was not allowed to delay the programme of Congress. Universal suffrage having been decided upon, obviously the first step was, in the language of Mr. Henry Wilson, in his "History of Reconstruction," (p. 267) "the extension of suffrage to the colored race in the District of Columbia, both *as a right and an example.*" *The bill to this effect* was before the Senate. Mr. Buckalew, *of Pennsylvania, presented* thus the grounds upon which

Democrats opposed it: "Our ancestors placed suffrage upon the broad common-sense principle that it should be lodged in and exercised by those who could use it most wisely and most safely and most efficiently to serve the ends for which Government was instituted," and "not upon any abstract or transcendental notion of human rights which ignored the existing facts of social life." And, he said: "I shall not vote to degrade suffrage. I shall not vote to pollute and corrupt the foundation of political power in this country, either in my own state or in any other." The debate took a wide range. It was understood that the late Confederate States were to share the fate of the District. One question was whether the right of suffrage should be confined to those who could read and write. Mr. Sumner stated his position thus: "Now to my mind nothing is clearer than the absolute necessity of suffrage for all colored persons in the disorganized states. It will not be enough if you give it to those who read and write; you will not, in this way, acquire the voting force which you need there for the protection of Unionists, whether white or black. *You will not secure the new allies*, who are essential to the national cause."

The bill granting suffrage passed, without qualification. On January 7, 1867, the President returned it with his objections. Mr. Sherman, discussing the veto, said: "The President says this is not the place for this experiment. I say it is the place of all others, because, if the negroes here abuse the political power we give them, we can withdraw the privilege at any moment."

It is curious, glancing forward a few years, to see the result of this initial experiment. In 1871, while the Republicans were still in power in both Houses, a law was passed allowing the District of Columbia to elect its own Legislature and Governor. The newly enfranchised voters, who were given the ballot "both as a right and as an example," had thus full opportunity to show their capacity. What was occurring, at that time, in the Southern states was always a matter of partisan dispute, but the noon-day sun was shining full upon the Capital District, and the whole country saw that the political power conferred was being "abused." As

Senator Sherman had indicated it might be, it was, in 1874, promptly "withdrawn" by a law which took away, not only from the black man, but also from the white man, the right, which the latter had long enjoyed, of voting in the District of Columbia. The new law provided that the District should be governed by three commissioners appointed by the President. There has not been a ballot cast in the District since 1874.

Congress had the right to enact universal suffrage in the District of Columbia. It has exclusive jurisdiction there, under the Constitution; but that instrument might have been searched in vain, in 1867, for any power over the elective franchise in the states. Mr. Justice Nelson, of the Supreme Court of the United States, on the circuit had decided, in the case of Egan, that South Carolina was entitled, after her civil government had been restored under the Presidential plan, to all the rights of a state in the Union. In a carefully prepared opinion he said: "A new Constitution had been formed, a Governor and Legislature elected under it and the state placed in the full enjoyment of all her constitutional rights and privileges." What was true of South Carolina was true of others of the late Confederate States, and if these states were states, as Mr. Justice Nelson held, then Congress had no power over suffrage within their borders.

But this view of the Constitution did not suit the majority in Congress. The victory at the polls in the fall had put them abreast with Mr. Stevens, and now, in the winter of '66–67, they claimed full power over the late insurrectionary states, on the ground that it was for Congress to decide when the war had ceased; *and they decided it was not yet over.* Mr. Fessenden put it thus: "Is there anything more certain than that the conqueror has a right, if he chooses, to change the form of government, that he has the right to punish?" etc. On the 15th of March, 1867, Senator Howard, of Michigan, said: "They took their own time to get out of *the Union;* let them take their own time to return. They *took their own time to* initiate the war; we took our time to *close the war."* Mr. Maynard, of Tennessee, seemed to think *t necessary to show* that the continued existence of the war

was *a fact, really existing, and not a fiction assumed for jurisdictional purposes*, and he said, on the floor of the House, in February, '67: "It is not quite accurate to say that we are at peace; that there is no war. What peace is it? The peace of Vesuvius at rest, the peace of the slumbering volcano; the fires banked up, not extinguished; the strength of the combatants exhausted, but their wrath not appeased; no longer able to continue the conflict, but awaiting a favorable opportunity to renew it."

The facts were that for eighteen months prior to Mr. Maynard's speech there had not been, nor has there been, during the nearly a quarter of a century elapsing since, any offer or thought, in any of the late Confederate States, of resistance to the General Government; unless one may denominate such the occasional shooting, by a moonshiner, of a revenue officer; and this has occurred, oftener than elsewhere, in the Republican District of East Tennessee, represented, the writer believes, by Mr. Maynard when he claimed to be standing on a volcano.

Nevertheless Congress solemnly adjudged, for itself, that the war was not over; and so, on the 2d of March, 1867, in order, as was recited in the preamble, "to protect life and property in the rebel states of Virginia, North Carolina, Georgia, South Carolina, Alabama, Mississippi, Louisiana, Florida, Texas and Arkansas," "until loyal and republican state governments can be legally established," it was enacted that those states should be divided into military districts and placed under military rule. On the 23d, of March, 1867, a supplemental act was passed, completing the plan of reconstruction.* These acts annulled the state governments then in operation; enfranchised the negro; disfranchised all who had participated in the war against the Union, whether pardoned or not, if they had previously held any executive, legislative or judicial office under the state or General Government; provided for the calling of conventions, the framing and adopting of state constitutions, the *election of state officers;* and, in fact, pointed out all the *machinery necessary to put* into operation new governments upon

* *See these acts* in full. (Appendix A and B.)

the ruins of the old. Until the several states should be admitted under these new governments into the Union, the military officers in command were to have absolute power over life, liberty and property; with the sole exception, that death sentences were subject to approval by the President. Several ineffectual efforts were made to get the question of the validity of these laws before the Supreme Court of the United States. At last the case of McCardle from Mississippi seemed to present it fairly. McCardle, basing his denial of the power of a military court to punish him on the ground that the reconstruction laws conferring that authority were unconstitutional, appealed to the Supreme Court. That Court denied a motion to dismiss the appeal. The case was then argued on its own merits. The argument was concluded on the 9th March, 1868; and the Court took the case under advisement. While it was being so held, to prevent a decision of the question, a bill was rushed through both Houses and finally passed, March 27th, 1867, over the President's veto, depriving the Court of jurisdiction over such appeals. This act, of course, implied the fear that the decision would be adverse to the validity of the laws, as a favorable decision would have been of immense value to the Republican party. Considering all the circumstances, it is indeed natural to conclude that this hasty action was based upon positive information that the decision, if made, would declare null and void the reconstruction laws.

After the passage of these laws and the muzzling of the Supreme Court, the careful observer of existing conditions, looking at the many adventurers who had followed in the wake of the army, at the numerous employees of the Freedmen's Bureau, so long in training for their now fast ripening opportunities, might easily have predicted that the legislation of Congress would inevitably result in what Mr. Lincoln had feared and deplored as far back as 1862.

Just before the election for members of Congress, which *had been ordered by* Governor Shepley in Louisiana, President *Lincoln addressed him* a letter, November 21st, 1862, saying *that only "respectable* citizens of Louisiana," voted for by *"other respectable* citizens," were wanted as representatives

n Washington. "To send," he says, "a parcel of Northern nen here, elected, as would be understood, and perhaps justly so, at the point of the bayonet, would be disgraceful and outrageous."

But party spirit had now gotten far away from that lofty plane on which Lincoln, the statesman, had stood.

Even Mr. Garfield, usually generous and conservative, had become so much excited as to say, in the discussion of these measures on the 18th February, 1867, and seemingly with exultation: "This bill sets out by laying its hands on the rebel governments and taking the very breath of life out of them; in the next place it puts the bayonet at the breast of every rebel in the South; in the next place it leaves in the hands of Congress utterly and absolutely the work of reconstruction." In other words, Mr. Garfield meant that if the results were not satisfactory, Congress might, at will, modify or change its plans.

But happily, as it no doubt appeared, there was only need for a few more changes in the law.

The reconstructors builded even better than they knew. The results exceeded even the sanguine prediction of Mr. Henry Wilson, who said, March 15, 1867, on the floor of the Senate: "With the exercise of practical judgment, with good organization, scattering the great truth and the facts before the people, a majority of these states will, within a twelvemonth, send here Senators and Representatives, who think as we think, speak as we speak and vote as we vote, and will give their electoral votes for whoever we nominate for President in 1868."

In a little more than a "twelvemonth" from the date of Mr. Wilson's prediction—by the close of June 1868—eight of the eleven Confederate states were represented in both branches of Congress. Of these Representatives all but two were Republican, and among the sixteen Senators there was not a single Democrat.

About one-half of these Senators and Representatives were *Northern men, elected* when, as Mr. Garfield said, "the *bayonet was at the breast* of every rebel in the South,"—*ing Mr. Lincoln had* characterized as "disgraceful and ou *eous.*"

The "fruits of the war" were being gathered.

Nothing remained but to perpetuate existing conditions.

Not only did these newly set up states ratify with alacrity the 14th Amendment, but by the 30th of March, 1870, with their assistance, the 15th Amendment was also declared part of the Constitution. Suffrage had been granted to the negro in the Southern states *by Congress*. This Amendment provided that "the right to vote should not be abridged by the United States, or by any state on account of race, color or previous condition of servitude."

The net results of these reconstruction measures were that, in the 41st Congress, beginning March 5, 1871, when the twelve Southern states, including West Virginia, had all been gathered into the fold, they were represented by 22 Republicans and 2 Democratic Senators and 48 Republican and 13 Democratic Representatives.

The National Republican party had, in the language of Mr. Sumner, secured the "new allies" it needed in the South.

What these new allies accomplished in the several Southern states will appear in the subsequent chapters of this book.

HILARY A. HERBERT

CHAPTER II.

RECONSTRUCTION IN ALABAMA.

"Those men in the South, who are seeking to establish a black man's rty, are the enemies of this principle of equality; and if they carry out eir plans they will strike Republicanism a blow far heavier than the mocracy can deal."—HORACE GREELEY in the *Tribune*, summer of 57.

I. HOW THE REPUBLICANS OBTAINED CONTROL.

T is difficult to convey any proper idea of the wretchedness that prevailed in Alabama at the close of our Civil War. housands who were totally unaccustomed to labor found emselves in extreme poverty, and in many cases father, sband, brother or son—the last and only hope—was sleeping in a soldier's grave. The State had lost of her citizens by e war, including the disabled, 25,227, more than 20 per nt. of those who could now have been counted upon as read-winners. The credit system had been universal, but w all credit was gone; provision crops had gone to feed th Confederate and Federal armies; plow stock had most it been destroyed or carried away; negro laborers were demoralized, and flocked into towns and camps around Freedmen's Bureau Agencies; and, to fill the cup to the brim, a vere drought came with its afflictions, so that the crops of rn and small grain throughout the State in 1865 were not re than one-fifth the usual amount.*

These results of the Civil War, the reader can readily see, d no tendency to obliterate the political feuds that had vided the people of the State in days gone by.

On the contrary, there was a manifest disposition to seek, the history of the past, for the causes which had led to the ils of the present. Politics in Alabama had always been re or less exciting. It had long been customary for the

* Governor *Parsons' message* to Legislature, November, 1865.

champions of opposing parties to meet in joint debate, and discussion had greatly intensified political differences. Whigs and Democrats, Union men and Secessionists, had all been thoroughly in earnest. Even the terrible four years' war had not brought them together; and in the summer of 1865 it did not seem possible that time could ever set in motion any forces powerful enough to compact all these people into one party. Certainly the presence at that time of Union soldiers in the State had no such tendency. It was expected that, as a matter of course, the soldiers would be removed when civil authority should be restored, and the relations between them and the ex-Confederates were very kindly.

But there was little sympathy between the citizen and the agent of the Freedmen's Bureau. This Bureau agent, for the most part, had not been a soldier; his past experience, his present avocation, and his aspirations for the future, all differed him from the veteran, who had learned on the battle-field to respect his foe, and who found, in his own approving conscience and the gratitude of his countrymen, sufficient reward for the services he had rendered.

Senator Fessenden, of Maine, very accurately described the future *personnel* of the Freedmen's Bureau, when he said, in his speech opposing the bill for its establishment: "You give these creatures to the kind protection of broken-down politicians, and adventurers, and decayed ministers of the Gospel, and make them overseers to make fortunes out of the poor creatures." The outline portrait he drew was artistic, but it was not given the great Senator then to see all the opportunities that were to open before these future friends of the colored man. They were not to be content with the petty business of robbing the negro; they were to become statesmen, and traffic and barter away the credit of States. Never were men more prompt to realize a new situation. Enfranchisement of blacks and disfranchisement of white leaders had already been mooted in Congress, even before the passage of the bill establishing the Bureau. The consummation of such a scheme would afford vast opportunities to those who could control the negro vote; and Bureau employees began at once to establish themselves in the confidence of the colored

man. The phrase flashed like lightning through the region of the late Confederacy that at Freedmen's Bureau agencies "the bottom rail was on top." The conditions which this expression implied exasperated the whites, in like ratio as the negroes were delighted.

The faith of the freedman in the guardian the Government had placed over him soon became unbounded, and, if these guardians had so desired, every able-bodied freedman in Alabama would, in the fall of 1865, if not already provided for, have been hunting a home and wages for the coming year. Instead of this they were generally found here, as Gen. Grant reported on the 11th of December, 1865, they were elsewhere, refusing to make contracts and waiting for Government aid. There had never been any system of statutes compelling to industrious habits in Alabama, as there was in the New England states. What could the Legislature do but pass laws to prevent idleness and vagrancy?

On the 21st day of June, 1865, President Johnston had issued his proclamation for the restoration of civil authority in Alabama, appointing Lewis E. Parsons, a Union man, Provisional Governor. A state convention had been called, had met, abrogated the ordinance of secession and repudiated the Confederate debt. Then a Legislature had been elected. It was now in session and had ratified the thirteenth amendment, abolishing slavery, with practical unanimity. It then addressed itself to the task of providing laws to remedy the labor situation. In the Congressional canvass at the North, during the next fall, these Alabama laws, with others of like character, passed by states in like condition, were made to figure as "new slave codes in the South." Mr. Blaine devotes many pages of his "Twenty Years in Congress" to these statutes, denouncing them unreservedly, without so much as noticing the conditions which called them forth. His effort seems to be to embalm into enduring history the political literature of that exciting period. The limits of this article permit only a brief reply to his *strictures. He says* (p. 94, Vol. II): "In Alabama, *which might serve as an example for the other* rebellious states, *stubborn and refractory* servants' and 'servants who loiter

away their time' were declared by the law to be 'vagrants' and might be brought before a Justice of the Peace and fined fifty dollars, and in default of payment they might be hired out on three days' notice by public outcry for the period of six months. No fair man can fail to see that the whole effect and presumably the direct intent of this law was to reduce the helpless negro to slavery for half the year," etc.

This statute is not widely different from the following law of Rhode Island, Rev. of 1872, p. 243: "If any *servant or apprentice shall depart from the service of his master or otherwise neglect his duty*" he shall be arrested on oath to be made "in writing by his master," and the officer may commit him to the state work-house of correction," etc. Certainly "*otherwise neglect his duty*" is as broad as "loiter away his time," and includes "stubborn and refractory" and much more—and the punishment in both cases is hard labor; differing in kind because there were no work-houses in Alabama as in Rhode Island.

After further comment on the statute above quoted, Mr. Blaine assails the apprentice law, which is not materially different from the apprentice laws of the New England states, except in one particular, to which he calls especial attention, thus: "Then follows a suggestive proviso that if said minor be the child of a freedman, as if any other class were really referred to, the former owner of said minor shall have the preference." This was really a humane provision. The old master was far more apt to be kind to a child, who had been born his, than a stranger would be.

General Schofield, who had been much in the South, recognized this fact when he promulgated orders, May 15th, 1865, constituting a code for the Government of Freedmen in North Carolina. The second section of the order was: "The former masters are constituted the guardians of minors in the absence of parents or other near relatives capable of supporting them."

Mr. Blaine continues his comments. "To tighten the grasp *of ownership* on the minor, who was now styled an apprentice, *it was enacted, in almost* the precise phrase of the old slave *code, that whoever shall* entice said apprentice from his master *or mistress and furnish* food or clothing to him or her, withou

aid consent, shall be fined in a sum not exceeding five hundred dollars."

Compare Statutes of Connecticut, Rev. of 1866, p. 320: 'If any person shall entice such minor (apprentice) from the service or employment of such master . . . or shall aid or abet therein" he shall be fined "a sum not exceeding one hundred dollars *or be imprisoned for a term not exceeding six months.*"

The penalty here might reach six months' imprisonment. The same offense in Alabama could only be punished by fine.

Pages 95–6, Mr. Blaine says: "The ingenuity of Alabama Legislators in contriving schemes to re-enslave the negroes was not exhausted by the odious and comprehensive statutes already cited. They passed an act to incorporate the city of Mobile, substituting a new charter for the old one. The city had suffered much from the suspension and decay of trade during the war, and it was in need of labor to make repairs to streets, culverts, sewers, wharves and all other public property. By the new charter Aldermen and Common Council were empowered to cause all vagrants . . . all such as have no visible means of support . . . all who can show no reasonable source of employment or business in the city . . . all those who have no fixed residence or cannot give a good account of themselves . . . or are loitering in and about tippling-houses, to give security for their behavior for a reasonable time and to indemnify the City against any charge for their support and in case of their inability or refusal to give such security, to cause them to be confined to labor for a limited time, not exceeding six months, which labor shall be designated by the Mayor, Aldermen and Common Council for the benefit of the City. It will be observed, by the least intelligent, that the charge made in this City Ordinance was in substance the poverty of the classes quoted, a poverty which was of course the inevitable result of slavery," etc., etc.

Before commenting on this extract, let it be noted that here *is no charge of any abuses* under the law. All this denunciation *is based on the legislation, as found in the books.* Now Massachusetts, Vermont, Rhode Island and Connec-

ticut were never situated as Alabama was in 1865, never had Government Bureau Agents demoralizing labor in their midst, and yet we find in General Statutes Rhode Island, 1872, p. 555: "Every sturdy beggar who shall apply for alms or solicit charity; every person wandering abroad and lodging in Station-houses and not giving a good account of himself . . . every vagrant or disorderly person shall be imprisoned *not less than six months nor more than three years.*"

In General Statutes No. 5, of 1864, p. 24, of Vermont, acts similar to those described in the Rhode Island and Alabama statutes are made punishable by imprisonment not exceeding six months, and any citizen "may *of his own authority and without process* arrest" and convey to the magistrate, etc.

If he could have found in the Alabama law any authority for a private citizen to "arrest without process," what term would have been too harsh for Mr. Blaine to use?

In General Statutes of Connecticut, Rev. of 1865, p. 109, is found a law that declares vagrants, "all persons who travel from place to place without lawful occasion . . . all persons camping on the public highway without consent," etc.

By public Statutes Massachusetts, 1882, p. 1170, persons "roving about from place to place and begging or *living without labor*" are declared tramps and made subject to imprisonment in the house of correction "*not less than six months* nor more than two years," while in Alabama the punishment for similar offences could not exceed six months.

Mr. Blaine seems not to have known, when he was making these attacks on the legislation of a distant state, that similar and even harsher laws were in force all around him. Indeed, the laws of his own state were, as they are now, more rigorous than those he was assailing. The second volume of "Twenty Years in Congress" was published in 1882. At that very time the law of Maine (see Chapter XXI.) provided for committing to the work-house "all poor, indigent persons maintained by or receiving alms from the town, all able-bodied persons, not having estate or means otherwise to maintain themselves who refuse or neglect to work," etc., etc. . . . and after being thus committed to the work-house, "for no

crime but poverty," the unfortunate man, by Section 8 of the same chapter, "for idleness, obstinacy or disorderly conduct," is subject to be punished "as provided by the lawful regulations of the House."

But that is not all. We might paraphrase Mr. Blaine and say: "The ingenuity of Maine legislators in contriving schemes to circumvent the unfortunate poor was not exhausted by the odious and comprehensive statutes already cited." They provided, Section 17, p. 925, Rev. Statutes, 1883, that "whoever gees about from town to town, or from place to place in any town, asking for food or shelter, or begging . . . shall be deemed a tramp and be imprisoned at hard labor in the state prison for not more than fifteen months." By this law the laborer locked out of a mill by act of the owner is made a tramp, if, while going from town to town in quest of work, he begs bread to subsist life or even asks for shelter. Section 18, on the same page, then declares: "If a tramp enters a dwelling house, or kindles a fire in the highway or on the land of another, without the consent of the owner or occupant . . . he shall be punished at hard labor in the state prison for not more than two years." The poor man may starve and freeze, but must not beg. If he does he is punishable, in Maine, to the extent of two years in the state prison for his very first offense. The limit of the Alabama law was six months.

As a sort of capping to the sheaf he has been gathering in the field of Alabama legislation, Mr. Blaine crowns his foregoing criticisms with this remark: "The fact will not escape attention that in these enactments the words 'master,' 'mistress' and 'servant' are used." This in Alabama legislation appears to be the very climax of iniquity; and yet, in the Revised Statutes of Maine, 1883, p. 256, under the heading "Masters, Apprentices and Servants," occur the words "master" and "mistress," and further on the words "masters" and "mistresses." The simple truth is that these phrases are so imbedded *in the* terminology of the law that *they probably occur in the* statutes of every state in the *Union.*

Prof. Alexander Johnson, in his article on Reconstruction

(Cyc. Pol. Sci., Vol. III. p. 546), says, the controlling reason of the Republican successes in the Congressional elections at the North in 1866 "will be found in the constant irritation kept up by the general cast of the legislation in regard to freedmen by the reconstructed legislatures in 1865–66," etc., etc. If this be true, then it is submitted that the sober judgment of this day must be, that in 1866 the Northern mind was so much excited that it did not judge the situation fairly. Mr. Blaine has commented on the Alabama legislation taken "as an example" of other legislation in the South. Certainly no one can present the partisan view of that situation more strongly than he has done.

The writer of this article would never think of citing these New England Statutes for the purpose of basing on them a serious attack on the legislation of those states. Laws aimed at idleness, it is well known, are never so harsh in their actual operation as the strict letter of the statute would seem to indicate.

But when the author of a book, as important as that of Mr. Blaine, ignores this fact and bases a studied assault solely on the language of statutes, it is but just to reply by quotations from statutes. Of the comparison the reader can judge for himself.

How unfortunate it is that there is so much political dynamite in the negro question! When will the time come when the voter will sternly demand that politicians shall appeal to reason and not to passion?

The Spring of 1866 was now come. The first of January had passed without the division of land, which had been expected to take place then, and the colored people were beginning to see the necessity of exerting themselves; but negro labor was still much demoralized. As for the whites, even those who had been most hopeful were beginning to despond. They had done all they could for the restoration of honest, economical government to the State. But Congress had refused to allow them representation, and the Freedmen's Bureau and the army were still exercising supreme power in the state, while the battle for negro suffrage was being fought out in Washington and before the people of the North. Could

good government at the South be expected if the ballot should be given to the newly enfranchised black man? Few Alabamians thought so.

Republican government must be founded on virtue, intelligence and patriotism. Of all the races in the world the negro alone had been able to hold, always, a whole continent locked in the impenetrable mysteries of barbarism. First Egyptian, and then Moorish civilization had assailed Africa from the North; then Asiatics from the East and Europeans from the West had essayed to penetrate it—but Africa was still the dark continent. This was the fight the African had fought at home against civilization. Brought from his native land, freed from native influences, as a slave he had greatly developed—he was kindly disposed, docile and faithful. He had cared for the women and children of the South, even when battles were being fought in which his freedom was at stake. For this the Southern people felt deeply grateful, yet they could not think that his training as a slave had fitted him to take part in the government of a state.

Liberia, the free state, a creature of generous charities, though under the continued sustentation of the most intelligent philanthropists, was nevertheless a failure. Hayti and San Domingo were monumental warnings. The celebrated English historian James Anthony Froude, in his book "The English in the West Indies," p. 88, says: "In Hayti, the black republic allows no white man to hold land in freehold." And he adds, as the result of a thorough study of the subject, "the blacks elsewhere with the same opportunities will develop the same aspirations."

There seemed in 1866 to be no ground to hope that an experiment of negro suffrage in the South would prove more successful than elsewhere. Nevertheless there were Alabamians who favored it. Some of these were politicians, content to take office at any price to the country; but others of them were good citizens, who had become so embittered by the war, that they *were willing* to accept the aid even of their *former slaves in their fight* against the Secessionists; though *there was coming a crisis* that was to silence even a hatred *like this.*

The people of Alabama felt that they were vitally interested in the question of universal suffrage, and that they ought to have a voice in its settlement. Congress, however, had decided that they should not, and seemed now determined to put it upon them. This produced, necessarily, more or less of exasperation among the whites; and caused, at the same time, a spirit of exultation on the part of the blacks. Indeed, the colored people were already beginning to assume a tone of defiance, encouraged, as they were, not only by the refusal of Congress to recognize the state government, but also by Freedmen's Bureau agents, who had the army and all the power of the United States behind them. Of course, it was impossible that every citizen in the state could, in his dealings with either whites or blacks, be always circumspect, prudent and just. In spite of every influence that could be brought to bear by thoughtful men, who comprehended the situation, there was some strife between the races.

Provocations were often excessively resented, and, as is always the case, in such crises, every wrong done, if a colored man was the subject, even every peccadillo, was magnified, many times over, by political opponents.

The situation in the South figured largely in the North in the elections of 1866. The Republicans succeeded. The Reconstruction Acts were passed, over the President's veto, March 2d, and March 19th, 1867. Gen. Pope was placed in command of the district composed of Georgia, Florida, Alabama and Mississippi. Gen. Wager Swayne took command of the state, with headquarters at Montgomery. The state had been thoroughly reorganized and her courts in full operation for nearly eighteen months; but now the sound of the bugle, resounding night and morning through the corridors of her capitol, indicated that all power was again in the mailed hand of the soldier. The army had come to overthrow the government set up by the people under the plan devised by Lincoln and followed by Johnson; just as, two *years before,* it had come to destroy the government that had *existed under Jefferson* Davis.

Gen. Swayne, in a speech at Montgomery, March 1867, *thus pictured the situation*: "It is nearly two years since the

war ended, yet instead of the blessings of peace, we have had difficulties which can hardly be exaggerated and which are still increasing; criminations and re-criminations springing from the past; doubt engendering paralysis and poverty to blight all present effort; discouragement and apprehension clouding all our future."

There was yet a possibility that the reconstruction policy of Congress might fail. President Johnson, though Congress was constantly passing bills over his vetoes, was still standing firm. He thought that, if a proper case were brought, the Supreme Court would declare the laws void. That they were violative of the Constitution he had no manner of doubt, and feeling, as he always did, supreme confidence in the judgment of the people, he was absolutely sure that such would be the popular verdict in the Presidential election of 1868.

But the majority of the people of Alabama were not as hopeful as was the President.

In April, 1867, Albert Gallatin Brown, formerly United States Senator from Mississippi, and possessing largely the confidence of Southern people, came out in a letter advising acquiescence in the policy of Congress, and participation in the proceedings described by the Reconstruction Acts, that peace and as good government as was possible might be secured to the country. His letter was soon reënforced by another of similar import from John A. Campbell, a distinguished Alabamian, formerly a Justice of the Supreme Court of the United States. A majority of the leading papers of the state took the same position. They advised acquiescence and assistance, "not because we approve the policy of the reconstruction laws, but because it is the best we can do."

The leader of the opposition was Gen. James H. Clanton, a man of phenomenal courage, of great directness of thought and speech and of singular magnetism. He had been a Whig, and was opposed to secession; but when the war began, believing in the doctrine of state sovereignty, he cast his lot with the people of his state and made a brave Confederate soldier. He now organized the opposition under the name of the Conservative party of Alabama. This was a name that would offend the prejudices of no one and would em-

brace all who desired to preserve the government that l been organized in the state under the Presidential plan.

On the 11th of May, 1867, Senator Henry Wilson, Massachusetts, made a political speech at the capitol in Mo gomery to a great crowd of whites and blacks. He took position that the Republican party had entitled itself to votes of all the colored men, and then, assuming that negroes must and would act together, he made an able app to white men to join them. Gen. Clanton replied, combat Mr. Wilson's positions, and especially contending that Southern white man was the natural ally and best friend the negro. Gen. Clanton's speech had wide circulation a great effect. It pointed out that the result of the teachi of Senator Wilson would be the establishment in the state a party that would be controlled by aliens and colored m A few days afterwards, May 14th, Judge Kelley, of Pe sylvania, made a political speech at night in the streets Mobile, which, unfortunately, was attended by a riot. Pist were fired, mostly, if not entirely, in the air, and, thou nobody was hurt in the riot, the meeting was broken Gen. Swayne, after investigation, reported, May 20th, Gen. Pope that "the disturbance was not apprehended deliberately planned, unless, possibly, by a small party ruffians, such as are usually found in cities," etc. Gen. P nevertheless, thought proper to remove Major Withers not preventing the riot, and he appointed in his stead a M Gustavus Horton.

The following is an example of the administration of M Horton:—

The *Mobile Tribune* had been publishing some spicy cr cisms of his decisions, and had made mention, also, of M Bromberg, then affiliating politically with the mayor. Char Archie Johnson was a good-natured, half-witted, lo mouthed deformed negro news-vender; and on one particu occasion he made himself especially offensive by crying alo on the streets, "Here's yer *Mobile Tribune*, wid all ab *Mayor Horton an' his* Bomberg rats." The Mayor, it *said, considered this an* offense against the "Civil Ri *Bill," which, as we shall see,* afterwards made a ma

figure in Alabama Courts, and he actually sentenced the negro Johnson to banishment from Mobile to New Orleans. This was all very ludicrous. Banishment is contrary to the genius of American government; but so is the appointment of a civil officer in time of peace by a military chieftain; and the logical mind of the mayor, who had gotten his power from Gen. Pope, was unable to comprehend why he, Mayor Horton, could not banish a negro, just over to New Orleans.

Soon after the assignment of Gen. Swayne to the command over Alabama it came to be an open secret that he was a prospective candidate for the United States Senate.

As far back as June 4th, 1866, the General had begun to make straight the way before him. On that day, which was two days after the first meeting of the Montgomery Council of the Union League of America, his name was proposed for membership in that Council and on the next day he was initiated. This Council was simply an association of those who were training themselves for leadership in the party, which, it was then evident, Congress was about to legislate into existence in Alabama. It is true that the Constitution of the League declared in the concluding words of Sec. 2 that its purpose was "to protect, strengthen and defend all loyal men without regard to sect, condition or party"; but if it had had no other object than this it would have welcomed all good men to membership. The minutes show, however, that many such were refused admission, evidently from the spirit of rivalry, for nearly all these rejections occurred after the passage of the reconstruction laws, and when the time was drawing near for a division of the spoils. Indeed, the purposes of the organization are not left to inference at all. May 22d, 1867, this Montgomery Council resolved "that the Union League is the right arm of the Union Republican party of the United States, and that no man should be initiated into the League who does not heartily endorse the principles and policy of the Union Republican party."

The Montgomery Council was composed mainly, if not altogether, of white Republicans. The Lincoln Council, in the same city, and many others elsewhere, were for blacks principally. While the Union League was a means of soli

fying the negro vote, it was also used to shut out white men. Not only were reputable citizens kept out by the votes of members, but the very framework of the League was so constructed as to exclude most of the Southern whites. The fifth question asked of an applicant upon his initiation was "Do you hold and believe that secession is treason?" etc. Of course, although the man who had fought for secession was willing to renounce it for the future, he could not be expected to assent to this proposition.

When Southern white men were thus excluded from, while the negro was sworn into, this controlling organization, no other political result was possible than that which followed—a republican party dominated by negroes—a black man's party.

Gen. Swayne's Chief Clerk, Keiffer, was Secretary of the Montgomery Council, U. L. A., and was also chairman of the Republican Executive Committee for the State. When Gen. Pope, May 21st, 1867, ordered the registration of voters, Gen. Swayne appointed for each of the forty-two districts three persons, all Republicans. Montgomery was headquarters of the General and of the Republican party. From that city General Swayne sent five colored men to be registrars in distant counties. Thus while registration proceeded during the day these registrars had opportunity at night to organize the Union League among the colored men who came to be registered.

Mystery is always attractive, especially to the uneducated. To the freedman an invitation to join a secret league, which was to protect him in the newly-found liberties, of which he was told his former master was conspiring to deprive him, was simply irresistible; and the invitation certainly lost no force because it came from those who were his guardians by law and who claimed that their party had freed him. In the Union League the negroes were sworn with uplifted hand, "in the presence of God and these witnesses," "to vote only for, and for none but, those who advocate and support the great principles set forth by the League to fill any office of honor, profit or trust in either the State or General Government."*

**See Ritual,* Constitution and By-Laws of National Council Union *League, p. 18.*

The forms and ceremonies for the initiation of a member, as prescribed in the pamphlet above quoted, when followed by an explanation of the signs, grips and pass-words, as printed in the key intended "for the use of officers of the Council only," must have been, to the inexperienced freedman, another chapter from Revelations. How impressive these words, which the initiating officer spoke to the new members, "with clasped and uplifted hands repeat after me the Freedman's Pledge—*To defend and perpetuate Freedom, Political Equality and an indivisible Union I pledge my life, my fortune and my sacred honor. So help me God!*"

These are some of the things that occurred inside of the League. Outside, the freedman found leading members of Congress coming down South to tell him that his allegiance was due to the party that had freed him and given him the ballot. He also found great soldiers, like Gen. Swayne, giving the same advice.

What folly for Mr. Greeley to deplore the formation of "a black man's party"! The forces brought to bear upon the freedman could not be resisted; he was clay in the hands of the potter; and was fashioned to the uses of those who wrought.

Gen. Swayne, though he undoubtedly hoped to get office by the destruction of the Lincoln-Johnson Government in Alabama, was nevertheless far more conservative in his utterances than his superior, Gen. Pope. In a letter to Gen. Grant of date July 14th, 1867, Gen. Pope wrote concerning the freedmen: "It may be safely said that the marvelous progress made in the education of these people, aided by the noble charitable contributions of Northern societies and individuals, *finds no parallel in the history of mankind.* If continued, it must be by the same means, and if the masses of the white people exhibit the same indisposition to be educated that they do now, *five years will have transferred* intelligence and education, so far as the masses are concerned, to the colored people of this District," which included Georgia, Florida, Alabama and Mississippi. In the South this was looked upon as an official justification of the scheme to put the black race over *the white, and it did not* there popularize either the General

in command or the policy of Congress; but the marvelous prophecy may have found believers in other parts of the country.

All these things tended to drive away those intelligent and influential men whose support was necssary to the success of a Republican party in Alabama, but there still remained a very great indisposition to oppose the policy of Congress.

July 23d, 1867, General Clanton, Chairman of the State Committee, called a convention of the opposition, then called, as we have seen, "the Conservative Party of Alabama," to meet on September 4th. Strenuous efforts were made to secure a large attendance, but only thirteen out of the sixty-five counties of the state were represented. But now the teachings of those who were organizing the black man's party were beginning to bring results that were startling. The negro was rapidly assuming an attitude of hostility to the Southern white man. Several instances had occurred during this summer of colored men resisting arrest by white officers; and now the idea of forcibly preventing the meeting of the Conservative or Opposition Convention at Montgomery began to take shape. Fortunately, however, a few leading colored men, appreciating the situation, formed themselves into a "*SPECIAL Committee on the Situation*," and resolved that they would "use all the influence they may possess to counteract any acts of violence," if offered, "to the convention." They were so successful that the delegates to the convention did not know of the danger till it had passed. Two days afterwards, September 6th, 1867, L. J. Williams, a colored Republican, published a card, as chairman, setting forth what this "Special Committee" had done, and taking to it the credit of having preserved the peace. It was indeed creditable to Williams and the committee acting with him, that they should suppress this contemplated outrage. The fact, however, that such a move*ment should have* been conceived by those, who had *so lately been slaves, is* an amazing proof of the facility with *which the colored* men imbibed the lessons that were being *taught them. As it* was, the convention met and adjourned

in peace, after having passed resolutions deprecating efforts to array race against race, favoring education of the negro and expressing the belief that Congress did not possess the power to regulate suffrage. Some months after this occurrence one Wade Potter, a colored man, who had been speaking in the interest of the Democrats, was assaulted by a mob of negroes in the streets of Montgomery, and a serious riot was only prevented by the coolness and courage of Gen. Clanton, who came personally to the rescue of Potter. The extent to which the color line was drawn in those days by the colored people may be judged of when it is stated that negroes who dared to vote with the Democrats were often expelled from their churches.

Gen. Pope, August 31st, ordered an election for delegates to a Constitutional Convention, the voting to begin October 1st, 1867, and last three days. At this election 18,553 white men voted for delegates. Besides these, many more passively favored this reconstruction policy by refusing to register.

The convention to frame a new constitution met on the 5th of November, 1867, and it was a remarkable assemblage. Some of its members were Alabamians, intent on the best government that might be possible; others were natives of the state, with not a thought beyond self; many were negroes, for the most part densely ignorant, and many were Northern men who, having failed in life at home, had come South to seek their fortunes in politics, carrying all their worldly possessions in grip-sacks—"carpet-baggers." In a Democratic newspaper, the place of nativity of ninety-seven out of a hundred members of the convention purports to have been given; thirty-one of them being from Vermont, Connecticut, Massachusetts, Pennsylvania, Maine, New Jersey, New York, Ohio, Canada and Scotland. The debates in the convention on disfranchising certain classes of whites, on mixed schools, intermarriage of the races, and other questions were exciting and inflammatory. These discussions, duly reported by the newpapers of the day, were read throughout the state with the deepest concern. An overwhelming majority of the constituency of this convention was colored and it had not been long in session before it became ap

clear that the black man's party was in control. The fact, that had begun to dawn on Mr. Greeley even at his distance, in Alabama was startling.

Every member of the Convention had entered it as a friend of the reconstruction policy of Congress; but delegates began now to falter, and when the Convention adjourned, thirteen of them issued an address, December 10th, 1867, protesting against the constitution that had been agreed upon, because "it tended to the abasement and degradation of the white population of the state," because it authorized mixed schools and because the Convention had refused to prohibit the intermarriage of the races. The protest pointed out, as evidencing the measure in which leading white Republicans cringed to their colored colleagues, that, "though the Judiciary Committee had *unanimously* reported a measure providing against amalgamation, yet the Convention tabled it; and *many members of the Committee, who had concurred in the report of the Committee, receding from their position, voted to lay it on the table.*"

The white people of the state were now greatly depressed. Many sought homes in Texas—some in the North and West, and numbers went to Brazil. So general was the disposition to go in this last direction that on the 17th December, 1867, Mr. Chas. Nathan, of New Orleans, published notice that he had contracted with the Emperor of Brazil to carry to that country one thousand families per annum. Those, however, who still hoped for the failure of the Congressional plan of reconstruction were much encouraged by the result of the fall elections of 1867 in the North. New Jersey, Pennsylvania, Ohio, Connecticut and California all went Democratic on anti-negro suffrage resolutions, and in Ohio the suffrage amendment was defeated by 50,000 majority.

Greatly to the relief of the people, Gen. Pope was, on the 28th day of December, 1867, relieved, and Gen. Meade, January 6th, took command of the District. Early in January Gen. Swayne was also sent away from the state.

The Vote on the Constitution.

The election for the ratification or rejection of the Constitution *was to be held* on the 1st, 2d and 3d of February,

1868, and its friends and foes now prepared for the conflict. The law of Congress provided that at this election officers to carry on the new government should be chosen, to take office, however, only upon event of the ratification of the Constitution. The Republicans nominated a full ticket; among them the following from the Freedmen's Bureau: Applegate, of Ohio, for Lieutenant-Governor; Miller, of Maine, Secretary of State; Reynolds, of Maine, Auditor; Jno. C. Keiffer, of Ohio, Commissioner Internal Revenue. As a sample of their nominations for county officers in localities where Northerners had located, the ticket for Montgomery County may be given. For the Legislature; Willard Warner, of Ohio, Paul Strobach, of Austria, and three colored men. For County officers: Probate Judge Eely, of New York; Clerk Circuit Court, Brainard, a Northerner; and for Sheriff, Barbour, also a Northerner. All these had come into the state either with the army or had followed in its wake.

The Conservatives determined to defeat the Constitution if possible. It was deemed a serious menace to the welfare of the state.

"Born of the Bayonet."

Mr. Sumner, when the vote on the reconstruction bill of March 2, 1867, was about to be taken, troubled his associates in the Senate very much by a sudden flash of his old love for government based on the consent of the people. He would vote for the bill, but confessed his regret that Congress should employ the military for the purposes of reconstruction, and said, "I would not see new states born of the bayonet."

But so the new state of Alabama literally was. A clause in the supplementary Act of March 23d required that a majority of the registered vote should be cast, else the Constitution could not be ratified, even though it received every vote that was polled. Senator Wilson, of Massachusetts, had pointed out in debate one possible effect of this provision of the bill thus: "It is a proposition to enable the rebel leaders to *take advantage of all* persons who are hostile to these terms *and all persons who cannot* go to the polls to vote." But the *motion to strike it out* was voted down. The provisio

became a law, after the attention of Congress had been called to the effect it might have, and it never occurred to any man in Alabama, that Congress would disregard and violate its own enactment.

A conference of prominent Conservatives from all parts of the state met at the Exchange Hotel, in Montgomery, on the first day of January, 1868, to consider how the proposed Constitution could best be defeated. After an anxious consideration of the whole subject, protracted for three days, it was decided to register and remain away from the polls, making no nominations for fear that friends of the candidates, in localities where they were likely to be successful, might be tempted to vote for the constitution. An eloquent address was issued, signed by all the participants in the conference, closing thus: "With a deep and solemn apprehension of the perils of our condition, with a painful sense of the responsibility of advising or indicating a course of action; after invoking the presence and guidance in our deliberations of that God, who presides over the destinies of nations, after elaborate and protracted and unreserved conference and discussion," they had come to the conclusion to recommend that electors should register and not vote.

The time for holding the election was protracted by Gen. Meade, from three to five days, that all might have the fullest opportunity to vote. The constitution was beaten. It carried down with it, of course, all the Republican candidates; but, as they had no opponents, these candidates would all take office if Congress could be induced to declare that the constitution had been ratified. In that event the newly-created Republican party of Alabama would have full possession of every department of the state government. So a delegation was immediately started off to Washington, to make charges of frauds in the election, which had been held under military supervision. The House Committee on Reconstruction at Washington, without waiting to hear from Gen. Meade, who, on the spot, was investigating these complaints, reported, on March 10th, in favor of declaring that the constitution had *been ratified*. The reasoning employed to sustain this conclusion *would be incredible if it* were not of record. The report says:

"Some time before the Alabama election the committee *saw* the injustice of the law (meaning the provision which required a majority of the registered electors to vote), and requested Congress to restore the majority principle in the vote on the constitution. The *House did not hesitate* to perceive the injustice and passed the act and sent it to the Senate. *The Senate suffered the act to sleep on their files for two months.* They then (which was after the election was over) took it up and passed it, and it has now (*after the election*) passed both Houses. The principle then that a majority of votes shall govern has been restored and your committee *can see no reason why it should not govern in this case.*" This was arguing that the result of an election could be changed by a subsequent change of the law under which it was held.

Thirteen days after this Gen. Meade made his report. In it he says, that some of the Alabama Republicans had asked him to report that the returns, "when properly explained, will show a majority of the registered voters as being in favor of this measure." He "regretted extremely" that he could not concur in this view, and said, "I cannot but look on the result of the recent election as the expression of opinion, that the registered voters do not desire to be restored under the Constitution submitted to them; *and, in view of the recent action of Congress giving ratification* to a majority of the votes cast, I would prefer seeing the Convention reassembled *for a revision of the Constitution* and the revised Constitution submitted to the people *under the new law.*" The General did not agree with the Committee of the House that *the new law* affected the *old election.* He goes on to say, "The Constitution fails of ratification by 8,114 votes."

He then points out reasons which he thinks made the Constitution less acceptable than the Convention, and concluded by showing that—

"Convention had white votes,	18,553
While Constitution had only	5,802
Loss in white vote,	12,751"

The *reader, if he lives* out of the state, may possibly have

forgotten what now occurred; but on the minds of the people of Alabama an impression was made never to be erased. Congress did not venture to declare that Gen. Meade's report did not truthfully state the results of the election, but, waiting till certain others of the states had held their elections under the new law, it placed Alabama with these and admitted them all in one act, declaring in the preamble that they had adopted their Constitutions "by large majorities of the *votes cast* at the elections held for the ratification or rejection of the same;" whereas the law governing the Alabama election, Act of March 23d, 1867, Sec. 5, required that there should be cast "a majority of the votes of the registered voters voting upon the question of such ratification."

In the face of the indisputable fact that the Constitution was defeated according to this law by an overwhelming majority, and of the peculiar wording, as above given, of this act of admission, the inference is, that members reconciled themselves to vote for this bill upon the theory avowed in passing the original reconstruction acts, viz.: that the whole question was "absolutely in the hands of Congress," and it could do as it pleased. But if this was the theory of the bill, then the only possible answer to the charge of misleading the Conservatives in Alabama, who relied upon the law as it was written, is that "no faith is to be kept with heretics."

II. WHAT THE REPUBLICANS DID WHEN IN CONTROL.

The newly-made legislators were fond of their avocation. They held three sessions in their first year, beginning respectively July 13th, September 16th and November 2d. There were twenty-six negroes in the House and one in the Senate. They were, of course, unfitted by want of education for the high positions they occupied; but so much deference was shown to them and the constituencies behind them that they naturally supposed the supremacy of the black man's party was secure. They had been led out of captivity into the promised land, and now it was to be theirs forever. That this was the sentiment that animated them was abundantly *manifest by the debates.* It is much to their credit that,

while under the belief that power was irrevocably theirs, they consented, at the first session of the Legislature, to the enactment of a law relieving of disabilities those who were disfranchised by the State Constitution. Gov. W. H. Smith was understood to be largely instrumental in securing the passage of the bill.

State Credit.

In the first report made by the Republican State Auditor, Mr. R. M. Reynolds, he said: "Alabama stands in a proud position in the financial world. . . . Nothing but gross mismanagement of her finances will cause her credit to decline." Of that credit the State had always been proud. More than one installment of gold was sent through the blockade during the war to pay interest on her foreign debt.

The new state government would have been, even if honestly and carefully administered, more expensive than that which it had displaced. New offices had been created – a Lieutenant-Governor, a Commissioner of Industrial Resources, and a body, with legislative powers, called the Board of Education. Pay and salaries, too, had been increased all along the line; but the figures thus added to expenditures are not worth compiling in view of the vast indebtedness that was soon to overwhelm the state and drive her for years out of the money markets of the world. In the first report of Mr. Reynolds the

Bonded debt of the state was	$5,270,000.00
Educational fund and miscellaneous, ...	3,085,683.51
	$8,355,683.51

The legislative schemes already embarked had not yet begun to bear fruit.

During the session beginning in July, 1868, there was no very important legislation. Per diem pay and mileage seemed to be satisfactory. At the second session a state aid law, endorsing bonds for railroad companies under certain conditions, which had been passed by the preceding state government, February 19th, 1867, was taken up, amended and the aid

increased from $12,000 to $16,000 a mile. The old law was said to be useless. No one would comply with its conditions. But if the state would endorse to the extent of sixteen instead of twelve thousand dollars per mile, capitalists from the North and from Europe were ready, it was claimed, with energy, enterprise and money to build railroads that would at once develop the resources of the state, and in a few years Alabama would rival Pennsylvania. The theory of the law was that these financiers were to put money enough into each enterprise to build the first twenty miles of the road and thus secure the state against loss. But the fact was that most of the pretended capitalists had nothing but audacity and a clever knack of manipulating corrupt legislatures. Some had not even money enough with which to pay bribes, and were forced to rely on such advances as they might obtain, on the faith of their schemes, from the confederates, who were to handle the bonds of the state. Bribery in the Legislature at first is claimed to have been so cheap that one member was reported to have said that some of his brethren "sold their votes for prices that would have disgraced a negro in the time of slavery." Various roads were begun, constructed, after a fashion, for a few miles and then abandoned. The schemers had no funds of their own, or, if they had, they did not invest them in Alabama. They swore falsely to get the bonds and always got them; sometimes for many miles that had not been touched.

	MILES.
The E. A. & C. was built	25
The Selma & Gulf,	40
Marion & Memphis,	45
Savannah & Memphis,	40
Selma & New Orleans,	20

Only one road begun under this law was completed, the A. & C. It was two hundred and ninety-five miles in length, and entitled by the statute to endorsement *when completed* to the extent of $4,420,000. But, when yet lacking one hundred miles of completion, it had received, as shown by the report made to the House of Representatives by B. B. Lewis, *Chairman in 1873,* bonds to the extent of $5,300,000; and,

not even satisfied with these, it *demanded* of the Legislature $2,000,000 of straight bonds—and got them.

Governor W. H. Smith issued most of these bonds, including the over-issue to the A. & C. No one believes he accepted any bribe, but he was criminally careless. In a letter dated April 3d, 1871, after explaining the over-issues, he said, "I admit that if I had attended strictly to the endorsement and issue of these bonds that all this never would have occurred." He trusted the railroad company and the bond brokers, who were leagued together to rob the state. Besides the general state aid law, many special acts were passed. February 25th, 1870, a bill authorizing the state to endorse for the M. & M. R. R. Co. to the extent of $2,500; March 3d, 1870, an additional endorsement of $6,000 per mile for the S. & N. R. R. Co. was provided for. The Legislature had also, December 31st, 1868, authorized cities and towns to subscribe. From these the adventurers now secured large amounts of bonds to be issued by counties lying along the lines of their projected roads; from Lee County, $275,000; Pickens, $80,000; Chambers, $150,000; Tallapoosa, $125,000; Randolph, $100,000; Dallas, $140,000. The bonds were received and sold, but the roads were never completed. Several cities and towns also subscribed.

The Liberality of the Colored Man.

Whenever the question of subscription was before the people, the colored man, paying little or no taxes, was relied upon to vote down the unwilling tax-payer. Some striking instances of the liberality of the negro in official position are furnished the writer by Judge P. G. Wood, of Dallas County, who, as Probate Judge, is in charge of the books and speaks advisedly. These are here given as samples.

The Court of County Commissioners has entire control of county finances. Four Republicans with the Probate Judge composed this court in Dallas County, two white and two colored, and one of the latter always signed his mark because he could not write. September 11th, 1864, a question being before the court of the rate of taxation, both the whites voted

for the lower and both the colored men voted for the higher rate, "although their names do not appear on the tax books."

This same court elected a physician for the jail prisoners at $600 per year. The Sheriff, who was jailer, denied their right to elect, refused admittance to their physician and employed one himself. On September 4th, 1874, the court allowed the claim of its doctor, who had not performed the service, and on the same day allowed the claim of the Sheriff's doctor, who had. "Equality is equity."

This county, though in that respect it was by no means alone, was blessed with illiterate office-holders; and it was one of the richest counties in the state. November 7th, 1871, it elected nine colored Justices of the Peace, several of whom could scarcely write their names. One of them made no claim to education, and, scorning all false pretences, made his cross-mark on his official bond. A Justice of the Peace in Alabama has authority among other things, to try possessory actions relating to lands of whatever value, and may incarcerate to await trial, or discharge even persons accused of murder. At the same time, November 7th, 1871, three colored constables were elected, who signed their official bonds by cross-marks. Constables execute process civil and criminal, including such as require sales of property to satisfy executions.

That it was deemed the proper thing in those days to put illiterates in high and responsible positions is shown by the fact that the Republican Governor, Lewis, in December, 1873, appointed to a vacancy in the Court of County Commissioners of Dallas, Oscar Huntley, who could not write. His name is signed to the minutes of the court by his cross-mark, and he possessed not more than the average capacity of the uneducated colored man. These and other like occurrences elsewhere in the state demonstrate that "the black man's party," the formation of which Mr. Greeley had feared, was *in full control; for not only did the negroes themselves select of their own color incompetent men for office, but they compelled their Governor to do the same thing. A representative Republic is representative* in fact as well as in name.

The Election of 1870.

In November, 1870, an election was held for Governor and other officers, and for members of the Lower House of the Legislature. The Senators all held over, refusing to classify and allow half of their number to be elected, as the Democrats contended their Constitution required. The canvass was an exciting one. During the previous year certain leading Republicans had petitioned Gov. Smith to call out the negro militia under the pretence of enforcing the law. The Governor, as his letter hereafter quoted shows, understood the motive perfectly. He was a Republican and desired the success of his party; but he refused to enter into the plans of these conspirators against the peace of the state, and, in his message of November 15th, 1869, replied to this demand, without mentioning it, by the statement: "Nowhere have the courts been interrupted. No resistance has been encountered by officers of court in their efforts to discharge the duties imposed upon them by law." Eight months afterwards, when the Republican primaries began to be held, the County Convention of Madison, dominated by certain of these men, criticised the Governor for not having complied with their demand. In a letter to the Huntsville *Advocate*, dated July 25th, 1870, Governor Smith replied, denouncing "Geo. E. "Spencer (Senator), J. D. Sibley, J. J. Hinds and others" as systematically uttering every conceivable falsehood. . . . During my entire administration of the State Government but one officer has certified to me that he was unable, on account of lawlessness, to execute his official duties. That officer was the Sheriff of Morgan County. I immediately made application to Gen. Crawford for troops. They were sent, and the said sheriff refused their assistance. . . . My candid opinion is that Sibley does not want the law executed, *because that would put down crime, and crime is his life's blood. He would like very much to have a ku-klux outrage every week to assist him in keeping up strife between the whites and the blacks, that he might* be more certain of the votes *of the latter. He would like to have a few* colored men killed *very week to furnish semblance of truth* to Spencer's libels upo

the people of the state generally. The man acts as though he thought it would be his duty to insult every man who ever had any connection with the rebellion. . . . It is but proper in this connection that I should speak in strong terms of condemnation of the conduct of *two white men in Tuskegee a few days ago in advising the colored men to resist the authority of the Sheriff;* and *these are not ku-klux, but are Republicans.*" The author of this letter was not only a Republican Governor, but he was overwhelmingly renominated shortly afterwards.

In November Lindsay and the other Democratic candidates for state offices were elected. Lindsay's majority for Governor was decided, but Gov. Smith began a contest by suing out an injunction, which was served on R. N. Barr, President of the Senate. As the other Republican nominees had not contested the election of their opponents, the Democratic Lieutenant-Governor elect, Moren, took his seat as presiding officer of the Senate, and as such counted the vote. Lindsay was declared legally elected. Smith's attorneys had not enjoined Moren. But Governor Smith barricaded himself in the Executive chamber, and, surrounding it by United States troops, refused to surrender the office. Federal troops were always present in those days to render prompt obedience to the orders of the Republican Governor. December 6th, Judge J. Q. Smith, a Republican judge, issued a notice to Governor Smith to show cause why he should not surrender the books and papers of the office. Smith appeared and abandoned his contest.

Governor Lindsay's administration was not a success. Indeed, an abler man than he might well have failed. The Lower House was Democratic, but the Senate was Republican. The state had already defaulted. There was no money to pay interest with and the credit of the state was at a low ebb.

Governor Lindsay was not only unable to cope with the situation, but was himself guilty of carelessness. He permitted himself to be duped, by false affidavits, into endorsing *$400,000 of the bonds* of the E. A. & C. R. R., when it had *not been built as required* by that Act. The Democrats in *convention, in 1872,* not only failed to renominate Gov. Lind

'say, as is the party custom in the state for one term, but they also omitted to endorse his administration. It was fortunate, however, that in 1870 they had elected a majority of the Lower House in the Legislature, for at the session of 1870–71 another set of financiers had made up their minds to come down South and help build up Alabama. Their demand was for $5,000,000 with which to set furnaces and factories going. They were too late. If they had only come the session before there was no chance for a bill containing $5,000,000, properly pressed, to have failed.

Governor Lewis.

In November, 1872, Grant carried the state over Greeley, and at the same election D. P. Lewis, a Republican, was elected Governor. The Democrats claimed both branches of the Legislature according to the returns; and their members-elect met in the chambers at the capitol as provided by law. But Senator George E. Spencer, the same who had quarreled with Governor Smith for not calling out the negro militia, was to be re-elected at this session, and, on his advice, the Republicans assembled what was called, from its place of meeting, the Court-House Legislature, claiming that they had a quorum in both branches. Governor Lindsay recognized the Capitol bodies. This Capitol Legislature, having possession of the returns, counted the votes in due time and declared Lewis elected Governor. Gov. Lewis accepted the count, but repudiated those who made it, and recognized the Court-House bodies.

Gov. Lewis, too, called for United States troops, and they came. In a letter dated Dec. 1st, 1872, the Governor himself narrates: "I telegraphed Capt. T. B. Weir, 7th U. S. Cavalry, at Opelika, after night of the 29th, to *come to Montgomery with all disposable force by first train, to which he responded.* Early on Saturday morning Capt. Weir arrived with thirty men and reported to Mr. Strobach, *who stationed them on a vacant lot adjoining the Capitol, where they are now quietly tented.*"

It is to be noted here that this was four years after Con

gress had declared Alabama rehabilitated and entitled to all the rights of statehood.

The new State of Montana has at this writing (February, 1889) two rival bodies, each claiming to be the lawful legislature. If, when this case arose, Gov. Toole had telegraphed for United States troops, and they had come by first train and encamped on a lot adjoining the capitol to aid the Governor of Montana and his political party, the case would have been entirely analogous to that at Montgomery in December, 1872.

After having surrounded his capitol with United States troops, the next move of the Chief Executive of Alabama was to call to his aid the Republican Attorney-General of the United States, who sent a telegram proposing terms for the settlement of the dispute. The Governor, in his letter submitting this telegram to the Capitol Legislature, denominated "these suggestions as a gentle intimation of the convictions of the law officer of the United States Government of his views."

As this "gentle intimation" was reinforced by United States troops, "quietly tented on a lot adjoining the Capitol," the Democrats thought there was nothing left but to submit.

December 17, 1870, both Houses organized under the Attorney-General's plan. This left the Democrats with still a majority on joint ballot. The next morning, December 18th, the presiding officer of the Senate, McKinstry, the Republican Lieutenant-Governor, announced that he had changed his mind, and concluded that the Senate could not be organized under the "plan" until a pending contest of Miller, Republican, against Martin, Democratic incumbent, was decided.

Hamilton, Democrat, appealed from the decision of the chair. McKinstry, without precedent to sustain him, refused to allow the appeal and the Democrats submitted.

Time was required to take testimony in the Miller-Martin case.

During the interval Edwards, a Democratic Senator, called home by sickness, "paired" on the Miller-Martin contest with Glass, Republican. Edwards gone, the case was at once brought on. Glass broke his pair and voted. Parks, a Democrat, changed his vote and moved a re-consideration to get time to send for Edwards. McKinstry refusing to entertain the

motion, Parks offered to put it himself, but his colleagues begged him to desist.

So McKinstry, riding roughshod over the law, declared Miller, Republican, seated from a Democratic district.

When McKinstry made an arbitrary ruling his answer to Democratic protests was: "Gentlemen, I hope you do not mean violence. If you do I will leave the chair."

The meaning of this was only too plain. United States troops were hard by, ready to assist the Republican presiding officer if the Democrats, who constituted a majority of the Senate, did not peaceably submit to his arbitrary ruling. No Anglo-Saxon Legislative body had ever yet so tamely bowed its neck to the yoke of a master; unless it was in some similarly situated Southern state, but the once proud state of Alabama was now prostrate in the dust. Still another move was necessary to re-elect Senator Spencer. A Democratic member of the House, socially inclined, after indulging in liquor with some Republican friends the night before, was too sick to attend the election next day; and so Mr. Geo. E. Spencer went to the United States Senate for six years more. The member claimed that his liquor was drugged.

The Judiciary.

Never was the will of the voter more clearly reflected by his servant in high place than by the Republican office-holder in Alabama. The judges of the Supreme Court were all Alabamians, long identified with the state, but, with possibly one exception, they bowed to what were supposed to be the prejudices of the dominant element in their party with as much deference as did Convention and Legislature. They decided that whites and blacks could inter-marry. It will be remembered that the state convention had simply voted down a provision to prevent inter-marriage. A subsequent Legislature had adopted a large body of pre-existing law without having observed, perhaps, that one clause forbade inter-marriage of the races. It will *amuse lawyers to know* that the learned Alabama Court held *that this law was nullified* by the Civil Rights Bill passed *by Congress.* Of course, the Supreme Court of the Unite

States decided differently when a case was brought before it. The Alabama Court decided, Judge Saffold dissenting, that the acts of Mr. Spencer's Court-House Legislature were valid, though even the Attorney-General's figuring left their Senate without a quorum. It also decided that all judgments rendered in the state during the war were void. From the disastrous consequences of such an opinion the state was only saved by the Supreme Court of the United States.

In the days we write of a young law student in Alabama asked a witty ex-Judge of the Supreme Court if he would not advise him to make, in those troublous times, a special study of Constitutional law. "No," was the reply, "I advise you to study all the unconstitutional law you can find."

Ignorance of the law on the part of those in Judicial position was so common as of itself scarcely to cause remark, except among lawyers. Take, as a sample, the criminal Court of the City of Selma, having jurisdiction extending even to capital cases. Its first Judge was one Corbin, an old Virginian, a *bon vivant* who had never practiced law; and its first clerk was Roderick Thomas, a colored man, who had only acquired a little education after he was freed. Corbin, after the loss of his fortune, concluded to be a Republican and a Judge, for the salary. As the old gentleman sat in Court, contemplating himself and his grand jurors, the ludicrousness of the situation must have taken strong hold of him, and this it probably was that inspired his charge to the grand jury, July 27th, 1874, from which we make a short extract, premising that it is a fair sample of the whole:

"Time was, and not very distantly, gentlemen, when this charge was done up and delivered in grand old style; when grand old judges, robed in costly black silk gowns and coiffured with huge old periwigs, swelling out their august personages, were escorted into the Court-rooms by obsequious sheriffs, bearing high before them and with stately step their blazoned insignia of office. . . . Fair ladies and courtly old dames of pinguid proportions, in rich and rustling silk brocades, flocked to grace the court-room with their enchanting presence and to hear the august, gowned and periwigged old judges ventilate their classic literature and their cultivat

oratory in the grandiloquent old charge. Not French or English soldiers, in leagued alliance of deathly war, on the far-famed heights of Balaklava, moved in more solemn tramp to martial step, huge blasts rippling their thrilling echoes up the long valley and precipitous ravines of that impregnable Russian fortress, than did those grand old judges in their terrific charges against the offenders of their day," etc., etc. Poor old Judge Corbin! Though he continued to vote and claim fellowship with his party, he could not keep step with them in all things; so they abolished his court and re-established it, all to put another in the judgeship. The learned ex-judge, a few days after this law was passed, said his party reminded him of "a parcel of pigs; as soon as one got an ear of corn the others took after him to get it away."

Judge Corbin's successor was his former Clerk of the Court, the colored man Roderick Thomas. So it could not have been professional ignorance that lost the old judge his seat. He knew quite as much law and ten times more rhetoric than Thomas. But Thomas got the place of judge of the Court that had jurisdiction over capital cases; and another colored man became clerk, with no more qualifications than Thomas had.

The year 1874, which was to mark another era in the history of Alabama, had now come. The government "born of the bayonet" had been in existence six years. A general election was to be held in November, and both parties began early to prepare for the conflict. The Republicans who represented the state in Congress had made their contributions at an early date. They had secured, in the Act of March 28th, 1874, authority for the President to issue army rations and clothing to the destitute along the Alabama, Tombigbee and Warrior Rivers, all in Alabama; and, to carry out this and a similar Act relating to the Mississippi, four hundred thousand dollars were appropriated by the Sundry Civil Act, approved *June 23d, 1874.*

It may be as well here to give the history of this adventure *which was based on* the pretense of a disastrous overflow

There had really been no unusual overflows anywhere in the state. The money sent to Alabama was distributed as an electioneering fund; some of it at points like Opelika, which had not been under water since the days of Noah's flood. This open prostitution of public funds, became a most effective weapon in the hands of the Democrats. To crown the misadventure, the Republican Governor, Lewis, probably to stamp with the seal of his condemnation the folly of the superserviceable politicians, who had secured this hapless appropriation, in his message to the Legislature, just after the election, took occasion to say, pointedly, that the state had during the year been "free from floods."

The Republicans renominated Governor Lewis and the Democrats selected as their candidate George S. Houston. And now began the great struggle which was to redeem Alabama from Republican rule.

The state was bankrupt—its credit gone.

Governor Lewis had reported to the Legislature, November 17th, 1873, that he was "unable to sell for money any of the state bonds."

The debt, which had been at the beginning of Republican administration in the state $8,356,083.51, was now, as appears by the official report, September 30th, 1874, including straight and endorsed railroad bonds, $25,503,593.30.

City and county indebtedness had in many cases increased in like proportion, with no betterments to show for expenditures.

The administration of public affairs in the state for many years preceding the Civil War had been notably simple and economical. Taxes had been low, honestly collected and faithfully applied.

To a people trained in such a school of government the extravagance and corruption now everywhere apparent, coupled with the higher rates of taxation and bankrupt condition of the treasury, were appalling.

More intolerable still were the turmoil and strife between *whites and blacks,* created and kept alive by those who, as *the Republican Governor* Smith had said, "would like to *have a few colored men* killed every week to furnish a sem-

blance of truth to Spencer's libels upon the people of the state generally," as well as to make them more "certain of the vote of the negroes." Not only was immigration repelled by these causes, but good citizens were driven out of the state. It is absolutely safe to say that Alabama during the six years of Republican rule gained practically nothing by immigration, and at the same time lost more inhabitants by emigration than by that terrible war, which destroyed fully one-fifth of her people able to bear arms. Thousands more were now resolved to leave the state if, after another and supreme effort, they should fail to rid themselves of a domination that was blighting all hope of the future. Few things are more difficult than to overcome political prejudices as bitter as those which had formerly divided the white people of Alabama, but six years of Republican misrule had been, in most cases, sufficient for the purpose. In 1874 the people seemed to forget that they had ever been Whigs and Democrats, Secessionists and Union men; and when this came about the days of the black man's party in Alabama were numbered. Although the whites had lost over twenty thousand men in the war who would now have been voting, they had in the state, by the census of 1870, a majority of 7,651 of those within the voting age. In 1880 this majority, as the census showed, was 23,038, and by the coming of age of boys too young to have been in the war, the white voters certainly outnumbered the blacks in 1874 by over ten thousand.

The Republicans had forced the color line upon an unwilling people. The first resolution of the Democratic platform of July, 1874, was that "the radical and dominant faction of the Republican party in this state persistently and by false and fraudulent representations have inflamed the passions and prejudices of the negroes, as a race, against the white people, and have thereby made it necessary for white people to unite and act together in self-defense and for the preservation of white civilization."

That the people of the state accepted this issue in this manner is *the rock of offense* against which partisan clamor *of distant states has so often* since that day lashed itself into fury.

The campaign of 1874 was not unattended by the usual efforts to inflame the public mind of the North and to intimidate Democratic voters at home by the display of Federal power, both civil and military. Troops were, of course, loudly called for. Charles Hayes, a member of Congress from the Eutaw District, published a long list of Democratic outrages; and additional credence was given to his narrative by an endorsement of his character by Senator Hawley, of Connecticut. So promptly were these statements disproved, that Mr. Hawley was understood to have virtually recanted his endorsement. "L. M. J.," of Montgomery, who was, as it afterwards appeared, a certain J. M. Levy, wrote a letter to the *Washington Chronicle*, which the editor appropriately headed in flaming lines—

"ALABAMA—THE CONFLICT OF RACES.

Horrible Assassination—The Southern Republicans Imitate the Indians by Symbolic Scalping of their Victims.

The Way Negro Insurrections are Produced and Proclaimed.

Republicans, both White and Black, Warned not to take Part in the Canvass.

Murder, Personal Indignities. Hell itself Broke Loose, and All the Devils There.

The United States Asked to Protect Her Citizens."

The falsehoods of this article were proven by certificates from Probate Judge Geo. Eely, Deputy Marshal G. B. Randolph, Clerk of the City Council Hughes, and J. A. Minnis, United States Attorney—all Republicans.

There were, during the year 1874, conflicts between whites and blacks, in which both parties received injuries and losses. These were incited, Democrats claimed, by Republican leaders to invoke the aid of Federal authorities, civil and military, in the pending election. It certainly was natural that those *Republicans who were* continually crying out that outrages *were committed by the* Democrats, should desire, for these *complaints, some* basis of fact to stand on. The Spencer

wing of the Republican party were undoubtedly pursuing the same tactics now as in 1870, when Governor Smith condemned them in the letter from which extracts have been given. The Republican press, however, claimed that the acts which were to bring United States troops into the state to superintend the elections always resulted from the folly of the Democrats, who did not desire the presence of troops, and that the troubles were never instigated by the Republicans, who were anxious to have the troops. The political training of the colored man had been such that it was perfectly natural for him to look upon United States soldiers, when he saw them come into the state, as sent to see that he voted the Republican ticket.

Another method resorted to in this campaign was to handcuff Democrats and carry them great distances and by devious routes through populous portions of the state, exhibiting them, by the way, in such manner as to encourage the blacks and intimidate the whites.

The United States Marshal, having warrants against two citizens of Choctaw County, in order to make his act more impressive, descended with his deputies upon the County Democratic Convention while in session. Having marched his prisoners out, instead of bringing them before a committing officer nearer by, he carried them to Mobile, and instead of going by the usual route, the river, or by the next most usually traveled way, the Mobile and Ohio Railroad, he conveyed them down to Selma, across to Montgomery and then down the Mobile road—over three hundred miles—for a preliminary trial. The presence of troops and the exhibition of prisoners handcuffed, while it encouraged the negroes, served greatly to intensify the zeal of Democrats. Thousands of whites were inspired during that campaign with the feeling that their future homes depended upon the result of the election. The aliens among the Republican leaders also felt that their future habitations depended on the election, for they had no business in Alabama, except office-holding.

The Democrats were successful. They carried by over ten thousand majority all the state offices and they elected large majorities in both branches of the Legislature.

The clutch of the carpet-bagger was broken; most of them left the State; and there was at once peace between whites and blacks. A new Constitution was adopted. Superfluous offices were abolished. Salaries were cut down and fixed by the Constitution, some of them, perhaps, at too low a figure; and it is believed that, in many respects, the limitations upon the power of the Legislature were made too stringent. It was the necessary reaction, the swing of the pendulum from corruption and extravagance to the severest simplicity and economy in government. The consequences have been most happy. The credit of the state has been fully restored.

When the election of 1874 took place, the State had in circulation one million dollars of obligations called "Patton" or "Horse-shoe money." Although this was receivable for taxes, and bore 8 per cent. interest, it was hawked about, before the election, at 65 to 70 cents on the dollar. After the Democrats went into power these obligations went promptly to par, and were soon paid off and discharged.

The indebtedness of the State, which was in 1868, $8,355,-683.51, and in 1874, all told, $25,503,593.00, was, September 30th, 1888, $12,085,219.95, and every outstanding interest-bearing bond is now above par. To replace old bonds the Governor recently sold 4 per cent. bonds amounting to $900-000 at a premium.

Taxes are low. Life, liberty and property are protected by law, and foreign capital is coming in. The property in the State as assessed for taxation in 1876 was $135,535,792,-00; in 1888 it was $223,925,869.00.

There are no official figures that show accurately the number of white and colored pupils in the public schools during the six years of public ascendancy, but *ex pede Herculem*.

From a total school revenue of $524,621.68 in 1869, the Republicans paid to their school officials other than teachers $75,173.92. From a total school revenue of $539,209.04 in 1888 (not counting funds arising from local taxation), school officials were paid $13,992.80.

The teachers are paid partly by the State and partly from *private sources. Attendance* upon and interest in these *chools is rapidly growing.*

	White.	Colored.
In 1877 attendance was	88,622	54,999
" 1888 " "	159,671	98,919

The Census showed the following number of whites and blacks within school age:

	White.	Colored.
1870	229,139	157,918.
1880	217,320	170,449.

This decrease in the number of white children (11,819) while the blacks were increasing (12,531) though, probably due, in some slight degree, to inaccuracies in the census, is to be accounted for by the exodus of whites in the winters of 1871, '72 and '73, fleeing from bad government.

The increase in the number of schools from 1870, when the state was under the Republican rule, to 1880, when it had been six years under the Democratic control, as shown by the same census returns was as follows:

Schools.	White.	Colored.
1870	1355	490
1880	3085	1512

The census of 1890, now near at hand, will show a gratifying increase in the value of properties held by colored men.

It may be mentioned as a significant fact that Nathan Alexander, recently appointed by President Harrison as Receiver of Public Monies at Montgomery, gave a bond of $60,000, and it is said that all his bondsmen are colored men. They qualified in the sum of $120,000.

The colored population is progressing everywhere in the state—slowly in the black-belt, where the negro predominates; much more rapidly in the counties where the whites outnumber the blacks. Their progress is marked in morality, intelligence and property. If the next census shall corroborate, as it will, the truth of this observation, viz.: that the negro prospers most where the power and influence of the white man is greatest, then it is submitted that the fair conclusion is that, though Southern whites do not wish to be governed by a black man's party, yet they are, in fact, the best friends the negro has.

A careful study of the life of Abraham Lincoln must always cause fresh regret to well up in the heart of every Southerner as often as he shall recur to the awful deed of his assassination. Mr. Lincoln would have left suffrage to the states to regulate. Then it would have come to the colored man gradually and as he was fitted for it; and the negro would have regarded the Southern white man, who conferred it, as his friend. As it was, suffrage came to the colored man through an act of Congress. That act would never have been passed if the majority of Southern white men had been voting with the Republican party. It was passed because the colored men were expected to vote against the views of the electors legally qualified by state laws.

To see that the newly-made voters performed this duty the Republican party sent gentlemen like Messrs. Wilson and Kelley down South to tell them that they must all vote together for the party that gave them the ballot. Already among them were other men, correctly described by Senator Fessenden as "adventurers, and broken-down preachers and politicians," consorting, day and night, with these ignorant freedmen, poisoning their minds against their white neighbors and mustering them, with uplifted hands in midnight meetings, into a political league, which, by its very constitution, excluded most of the Southern whites. Under these circumstances the domination of either a black man's party or a white man's party was not to be avoided.

The facts of history are that the people of Alabama, prostrated by an unsuccessful war, and divided by the bitter memories of the past, were very loth to oppose what seemed to be the behests of the strongest government man had ever seen. They were utterly unable to unite and agree on any policy whatever. For six long years they suffered degradation, poverty and detraction, before they made up their minds to come together to assert, as they finally did, their supremacy in numbers, wealth, education and moral power. They have *now in* successful operation a government that, for the pro- *tection it affords to the lives*, liberties and property of all its *people, white and black*, may safely challenge comparison *ith that of any state* in the Union. Education and the

liberalizing influences of the age, to which Alabama is fully alive, will gradually, and surely, and safely solve every problem that can arise within her borders if she herself is left to deal with them. Will the American people, in the light of the terrible experience of the past, permit outside influences to prevent this consummation?

HILARY A. HERBERT.

CHAPTER III.

RECONSTRUCTION IN NORTH CAROLINA.

THE greatest physical punishment we can inflict upon man is death. There is a vast difference in the atrocity of crimes which we call capital, but the penalty is the same. The man who slays his parent, his child or his brother is simply hanged, as he is for the murder of a stranger. Happily, however, public sentiment superadds something to the penalties of such offences, by holding up the perpetrators to the execration of mankind. So it is with many offences against the social or political laws of civilized communities; for the infraction of which, in the nature of things, no adequate punishment is provided. The heinousness of such offences consists in an element of faithlessness—a betrayal of trust—treachery.

The destruction of the flock by the shepherd; the robbing of the ward by the guardian; the scandalizing of religion by a dissolute priest—are all crimes which find their most appropriate punishment in that public contempt which is society's excommunication.

In this catalogue is to be placed the betrayal of constitutional liberty, in its supreme home and by its especial guardians, in what is falsely termed the *reconstruction* of the Southern states.

This was a crime against the principles of free government for which no adequate punishment is provided by law. In fact, the criminals assumed to be above the law which they enacted, and the law itself was the crime.

The criminals sat in the law-making chamber, on the *bench and in the jury-box*, instead of standing in the dock.

It is with the hope that at this distance and in these more *dispassionate times*, I may aid in directing upon that

movement at least a portion of that execration which it so richly deserves, that I have consented to write this article.

It is an episode in American history that not only should not be forgotten, but which deserves to be studied by every considerate patriot in the United States.

It is not necessary or pertinent to argue the original question of the right of a state to secede. In the very brief allusion I shall make to the subject, I propose to treat it from the Northern standpoint: as settled, and that such a right never existed under the unamended Constitution. With this understanding I shall submit a few observations on the legality and propriety of the reconstruction acts of 1867.

The Southern states, believing they had a right to secede and depart from the Union, attempted to do so by repealing the ordinances of their conventions by which they had severally accepted the Constitution and become members of the Union. The remaining states, possessed of the autonomy of the Federal Government, said "No, you cannot do that; your ordinances of repeal are void; you are still in the Union and subject to the Constitution, and your attempt to maintain the validity of your ordinances by force is simply insurrection and rebellion, which we are bound by the constitution to suppress." Accordingly they waged war to suppress it and did suppress it. The slogan from the day when the first ordinance of secession was passed until the firing of the last shot in the war, had been the restoration of the Union. That had been the cry everywhere when men were appealed to to enlist:—"Join the army and help restore the Union." Was it not restored when the "rebellion" was suppressed and Lee gave up his sword to Grant? Everybody supposed so then; but yet it seems that Congress thought not, for the eleven states were declared by Congress to be out of the Union. Now it is well known that during the contest, so great was the aversion of the popular mind to the coercing of sovereign states and the invasion of their soil, that nothing but this appeal for restoring the well-beloved Union could have succeeded in filling the armies *which were necessary* to effect it. When that war, *therefore, was closed, was the* Constitution in any way changed? *Or were the relations of the* offending states themselves to th

Constitution and the Union (their guilty officials having been supplanted) in the slightest degree altered? Had not the Northern idea triumphed? Was not the Constitution supreme over the insurrectionary states? If so, where were they,—in the Union or out of the Union? There were only two ways by which they could possibly have gotten out:—legally, by virtue of their ordinances or by force of arms. As the legality was denied and the resort to force was a failure, the conclusion is unavoidable, that they were in the Union,—subject to all the requirements and entitled to all the privileges of the Constitution.

Individuals might indeed have been punished if they had committed treason, but the states in their corporate capacity could commit no wrong and therefore were not subject to punishment. Under our theory their existence was immortal, and the moment the individuals who had done wrong in the name of the state had been disposed of, they moved onward with their ancient laws and institutions restored,—subject in the language of Justice Nelson, "only to the new reorganization, by the appointment of the proper officers to give them operation and effect." This view was acknowledged and acted upon by the Government in all its branches, from 1865 to 1867. President Johnson (by what authority is not precisely known), immediately after the termination of the war, appointed temporary Governors for the states, with authority to appoint all needful officials; and directed them to call primary conventions, form Constitutions and reorganize the state governments in all their branches; and he also invited them, under their new Constitution, to elect Senators and Representatives in Congress in the usual and regular way. This was promptly done by North Carolina, and her new government was recognized by the President. It was also recognized by Congress in so far as the submitting of the proposed Constitutional amendment to her State Legislature for ratification was a recognition. So far also as any cases were brought before it, the judicial authority of the United States treated these state *governments as valid.* In the case of Amy Warwick, before *the United States* District Court of Massacusetts, Judge *Sprague, referring to* the supposed effect of the belligerent

rights which it was conceded belonged to the Government during the rebellion, by giving it, when suppressed, the rights of conquest, used the following language: "This is an error, a grave and dangerous error. Belligerent rights cannot be exercised where there are no belligerents. Conquest of a foreign country gives absolute, unlimited sovereign rights, but no nation ever makes such a conquest of its own territory. If a hostile power either from without or within takes and holds possession and dominion over any portion of its territory, and the nation by force of arms expel or overthrow the enemy and suppresses hostilities, it acquires no new title and merely regains the possession of that of which it had been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights. When the United States takes possession of a rebel district they merely vindicate their pre-existing title. Under despotic governments, confiscation may be unlimited; but under our government the right of sovereignty over any portion of a state is given and limited by the Constitution, and will be the same after the war as it was before." If this doctrine be true, and I imagine it will not be denied, of course the existing state authorities at the time were the only power which the Courts could recognize for the administration of law,—for the Constitution had conferred none in such cases upon the Federal Government.

Still stronger is the language of Mr. Justice Nelson, of the Supreme Court, in the application of James Egan for a *habeas corpus* to be discharged from imprisonment imposed upon him by the sentence of a military commission in South Carolina for an offence committed within that state. He promptly discharged the prisoner and said among other things: "For all that appears, the civil, local courts of the State of South Carolina were in the full exercise of their judicial functions at the time of this trial, as restored by the suppression of the rebellion some seven months previously, and by the revival of the laws and the reorganization of the state, in obedience to and in conformity with its constitutional duties to the Union. Indeed, *long previous to this*, the provisional government had *been appointed by the President*, who is Commander-in-chief *of the Army and Navy of* the United States (and whose will

under martial law constituted the only rule of action), for the special purpose of changing the existing state of things and restoring the civil government over the people. In operation of this appointment a new Constitution had been formed, a Governor and Legislature elected under it, and the state placed in the full enjoyment, or entitled to the full enjoyment of all her constitutional rights and privileges. The constitutional laws of the Union were thereby enjoyed and obeyed, and were as authoritative and binding over the people of the state as in any other portion of the country. Indeed, the moment the rebellion was suppressed and the government growing out of it was subverted, the ancient laws resumed their accustomed sway, subject only to the new reorganization by the appointment of the proper officers to give them operation and effect.

This organization and appointment of public functionaries, which was under the superintendence and direction of the President, the Commander-in-chief of the Army and Navy of the country, and who, as such, had previously governed the state from imperative necessity by the force of martial law, had already taken place, and the necessity no longer existed.

In the language of Mr. Reverdy Johnson, who wrote the minority report upon the reconstruction bills: "We submit that nothing could be more conclusive in favor of the doctrine for which they are cited than these judgments,"—that is, the doctrine that these new state governments were both, *de facto* and *de jure*, the legal and proper governments of the states lately in insurrection.

Notwithstanding all this, Congress, for purely partisan purposes, proceeded to treat these states as outside of the Union; and as alien communities who were to be dealt with anew under the laws of conquest and admitted to the Union on conditions of its own imposing. They happened to be Democratic in their politics; and it was not desirable to have the Union restored by the admission of eleven Democratic states; *that would seriously* endanger the Republican party.

They could not longer refuse to admit them to representation in Congress, which was the obvious constitutional right.

of these states, but they determined on conditions which would strengthen, not weaken, the Republican party. To do this *they dissolved the Union by an Act of Congress*, declaring that as they were out, they should only be readmitted on the formation of new constitutions and the adoption of certain amendments to the Federal Constitution. They were to be placed under military rule, every vestige of civil authority was to be abolished, and every civil magistrate displaced. Suffrage was to be made universal, except that every citizen was to be excluded from all participation in the primary proceedings who was proscribed by the proposed Fourteenth Amendment. All this was done and more, several years after the war had ended, without the slightest provocation on the part of the Southern states, save only that they *would* vote the Democratic ticket.

North Carolina, who had already, in obedience to the President's invitation, held a convention and remodeled her government in conformity with the changed condition of affairs, and who had elected a full corps of Federal and State officials, became a part of "Military District No. 2." Orders from "Headquarters" in Charleston, South Carolina, dissolved her state government, framed after her ancient custom and traditions, overturned her laws and displaced her officials. Anarchy reigned, tempered only by the will of a military satrap. A new convention was called by his authority.

The negroes were invited to vote, though their suffrage was not known to either State or Federal law; whilst many thousands, embracing nearly all of her leading citizens, were disfranchised. As the Sepoy troops were commanded by British officers, so these ignorant negroes were officered by a trained corps of expert thieves and scoundrels who showed them how to plunder the helpless whites.

The excuse given for this legislation was that the states lately in insurrection were in a state of complete anarchy, entirely without civil law and a republican form of government. Each assertion was a lie so palpable and monstrous, that the *historian will wonder* at the hardihood which *induced men to base momentous* actions upon it

North Carolina had a republican form of government,

framed by a convention of qualified members, who had been chosen by her legal electors; and under the Constitution thus formed, civil officers of every grade had been elected and installed; courts had been opened; justice was everywhere administered, and order secured in the usual way.

In addition to this, her duly chosen Senators and Representatives stood waiting for admission at the doors of Congress. To deny all this would justify the denial of any event of the past. No fact of history is more notorious. Naturally there could be no other than the worst of consequences attending a procedure thus begun in fraud and false pretence, and supported by force. A saturnalia began. Our English-speaking race has not known its like since the plunder of Ireland in the sixteenth century. Detachments of the army were stationed at various points to overawe the people. Almost every citizen of experience of affairs in the state was disfranchised, and over the others hung the threat of confiscation. Under such circumstances the new convention was called by military orders: the qualification of its members, its electors, and the persons to hold the elections, the time and place, were all prescribed by the same authority. Many of the poll-holders were candidates, whilst their associates were negroes who could neither read nor write.

The returns, instead of being compared in public, as was customary, were sealed up and sent to "headquarters" in Charleston, South Carolina. There they were examined in secret and the result announced.

That result was 110 Republicans and 10 Democrats!

The voting population of the state, as ascertained by the census two years afterwards, was 214,222; the registration for that election in 1868 was 103,060 whites and 71,657 negroes—total 174,717. The result shows that about 40,000 were either disfranchised or in some other way were deterred from voting.

Of the 110 Republicans who were announced by General Canby to be elected and pronounced by the sergeant who kept *the door to be* "duly qualified," were thirteen (13) negroes, *and eight (8) strangers*, who came to be wittily called "carpet-*baggers.*" They were not citizens of the state and were i

no way entitled to the privilege of making laws for North Carolina; but they came to officer the negroes and to teach loyalty to the whites. The rest were disaffected white natives, mostly without property to be taxed or sympathy with their race, or regard for the misfortunes of their country.

The language of the registration oath is a sufficient indication of their character. They met in January, 1868, and framed a Constitution after those of Ohio, Illinois and other Northern states, ignoring much of that of our fathers.

But little more than thirty days' notice of the election for ratification was given. But now comes the most iniquitous part of this entire, shameful proceeding. They had succeeded in stifling the voice of the people, by enforcing the disfranchising clauses of the reconstruction acts.

Congress went no further, and plainly meant to go no further, than to provide the machinery for a primary convention as the initial point of the new government. It assumed the right to prescribe the qualifications of the voters that far only. To have done so one moment after that convention met would have justified Federal control of the suffrage in every state and for all time. Accordingly, the new Constitution provided that all males of legal age should both vote and be eligible to office, except when convicted of felony. But to make sure of their hold on the state and the plunder which they meditated, by collusion with the military despot, they held the election for state officers at the same time with that for ratification, and applied the same disfranchisement to both! In this way at least 40,000 citizens, by a pure fraud, were deprived of the right to vote for the Constitution of their country and the officers elected under it, although it expressly provided in terms that they should vote! It is difficult to imagine a more despotic proceeding, or a precedent more dangerous to constitutional liberty. Here the foundation was laid for all the corruption and misrule which followed. Had the suffrage been free and honest, as the organic law required, there can be no doubt but that the Legislature at least would have represented the *property* and character of the state and *both been safe. By this* procedure the logical absurdity was *presented of submitting to* the negro the question of his own

right of suffrage. Primarily he was allowed to vote on the question. The Constitution permitted the white man to vote, but the military orders would not admit him to the polls; whereas the negro's only right to vote was under the Constitution which was not yet adopted.

The white man's right was co-existent with the government.

The question may be stated, for clearness, thus: The white men had the exclusive control of the body politic and the right of the suffrage from the foundation of the government—it was his government, for he made it; the negroes, who had no such rights, came forward and asked to be admitted to equal privileges with the white men. The question was decided by the applicants and not by those in whom the power to grant the application rested.

A man desires to become a member of the church; his application is referred not to the authorities of the church, but to the candidate himself. By such shameless devices was North Carolina reconstructed, and all the base and disreputable elements of society fastened upon the virtue and intelligence of the state. What little of wealth the war had spared was at the mercy of those whose greed was only equaled by the unscrupulous villany which fed it.

On the 4th of July, 1868, the new government was inaugurated. With a clean sweep of all the state officials and nearly all the counties, and a large majority of the Legislature, and backed by the army of the United States, they had it all their own way.

The Senate stood thirty-eight Republicans and twelve Democrats. The House stood eighty Republicans to forty Democrats. Of the Republicans there were twelve carpet-baggers and nineteen negroes—several of whom could not read or write. They made loud promises of a new generation of progress; and they were soon to bring about "a new heavens and a new earth." They told how the old order of things had been weighted down by slavery, and the poor had been oppressed by an aristocracy based upon it; and they *declared that their* divine mission was to regenerate a vast *state and awaken* the latent energies of a sleeping people and *develop the hidden* resources of buried wealth!

The better to do this, a number of outside carpet-baggers were called in to assist in the great work of progress by manipulating the negroes and the purchasable whites. Prominent among these strangers were one Milton S. Littlefield, Dewees and others—men whose reputations at home, if they ever had a home, entitled them to the contempt of their neighbors, and who, in their wanderings in search of plunder in the wake of devastating armies, left everywhere behind them a stench of foulness and corruption.

They immediately organized for a raid upon the depleted treasury of an impoverished people. It was soon stripped of every available dollar; then the school fund was robbed, its investments were sold to pay their *per diem*, which was spread out indefinitely by their protracted and unusual sittings. Four hundred and twenty thousand ($420,000) dollars of stock in the Wilmington & Weldon and the Wilmington & Manchester Railroads, which belonged to the educational fund, for the benefit of the poor children of the state, were sold by the Republican Treasurer for $158,000; which, with $100,000 more, borrowed from the Bank of George W. Swepson, was paid for their services, at the rate of eight dollars a day, to these negroes and carpet-baggers, who were professing to be the especial friends of education.

But having speedily swept away all that was visible and capable of asportation, there remained, unhappily, a still greater intangible mine of rich material for plunder in the credit of the state. Viewed as a corporation, though her fields had been devastated by war and her substance wasted by fire, yet that which was left constituted assets of considerable value and gave her obligations a standing in the market. Having obtained the power to control these assets and provided a rigid guarantee to this end in the Constitution itself, they resolved to rob the living and the yet unborn by the issue to themselves of her promises to pay.

A ring was formed, the chief of which were the said Littlefield and one George W. Swepson, a native, whose reputation *for integrity was so* bad as to make that of Littlefield *tolerable. He was,* perhaps, the most adroit agent of *corruption who was ever* known in North Carolina, as we

evidenced by the way in which he manipulated lawyers, legislators and judges. This ring demanded, and in most cases received, ten (10) per cent. on all appropriations passed by that Legislature, and it was notoriously understood that none, however meritorious, could pass without the payment of this tithe, and that any, however outrageous, could pass upon its payment. With this arrangement, Littlefield, Dewees, Laflin and others bought the Legislature, giving orders upon Swepson, who acted as treasurer of the corruption fund. Lavish entertainments were given and paid for in the same way; a regular bar was established in the Capitol, and it was said that, with somewhat less publicity, some of its rooms were devoted to the purposes of prostitution. Decency fled abashed; the spectacle of coarse, ignorant negroes sitting at table, drinking champagne and smoking Havana cigars, was not uncommon. I cannot refrain, in this connection, from telling a story which I have heard of one old "Cuffy," who was a member of that body, and a shining light in the movement of progress—one who, in the language of Mr. Hoar, had his "face turned toward the morning light." A friend, going to see him one night at his rooms, found him sitting at a table, by the dim light of a tallow dip, laboriously counting a pile of money, and chuckling to himself. "Why," said his visitor, "what amuses you so, Uncle Cuffy?" "Well, boss," he replied, grinning from ear to ear, "I 's been sold in my life 'leven times, an', fo' de Lord, dis is de fust time I eber got de money!"

Railroad companies were chartered right and left, and the friends and members of the thieving-guild were made presidents, directors and treasurers. When the booty was not likely to go round and give each one a fair divide, existing railroads were cut in two and old ones revived on paper.

Bonds were issued for the stock of the state in all these projects, and they were issued at once and in full, without limitations or conditions, and without any proper requirement that the private stock should be *bona fide*.

In this way, in less than four months the Legislature *authorized the issuing* of bonds of the state to the extent of *$25,350,000.* In addition to this, bonds had been issued for

various other schemes of minor importance, whilst the old debt of the state, including accumulated interest, was at least $16,000,000. The whole debt thus imposed upon our people exceeded $42,000,000; whilst the whole property of the state assessed for taxation in our then impoverished condition barely reached $120,000,000. In 1860, when the taxables of the state were assessed at $292,000,000, the total amount of taxes collected for state purposes was $543,000. In 1870 the taxables were assessed at $130,000,000, and the amount of taxes collected was $1,160,000—more than double the amount upon less than half the property; and this, too, without the payment of interest upon the state debt. They had provided carefully for obtaining as high a price as possible for these bonds, by bulling them in the Constitution itself.

They knew that the crash would inevitably come, and took all possible means of filling their pockets before it arrived. That inevitable end came sooner than they thought.

The old saying, that "Whom the gods wished to destroy they first made mad," was literally fulfilled. Rashly confident of their security for a number of years, there was no extremity of excess to which they did not go. It is safe to say that there was not a transaction, routine or otherwise, connected with the administration of the government in which there was not more or less of corruption.

The county authorities, emulating the example of the state, began a system of plunder in their municipal credit and plunged many of them so deeply in debt, that some of the wealthiest in the state had their script hawked on the streets at ten (10) cents on the dollar. Many of the bonds of the state were paid out in fabulous sums to lawyers and in some cases even to judges. Hundreds of thousands were gambled away in New York, and a noted courtesan of that city exhibited $100,000 of these bonds which she said she received from a railroad president.

The administration of justice was conducted but little better than the legislation of the state. It may without exaggeration be termed scandalous. A majority of the judges were either ignorant or corrupt. In fact, reconstruction processes had so winnowed the people, as to leave but very few

lawyers of learning and integrity in the ranks of the Republican party from which to choose judges.

Several of them were known as $20 lawyers—that is, men who had never studied law, but had obtained a license to practice upon proof of good character and the payment of $20. Several of them were notoriously corrupt. In a short time a large petition, signed by both Democratic and Republican lawyers, was presented to the Legislature asking for the removal of one for incompetency; whilst another resigned to escape impeachment.

It scarcely seems credible, and yet it is true, that with this $25,000,000 of bonds authorized to be issued, $14,000,000 of which were actually issued, not one mile of railroad was built in the state. That, with all the school fund which the state had left from the war, supplemented as it was by a considerable taxation for school purposes, not one child in the state, white or black, was educated in any public school for two years. Not one public building or charitable institution of any kind was built. No single thing was done to sustain the credit of the state or to improve the condition of the people. They simply sank the state as low in the scale of progress as could possibly be done short of universal ruin.

To all of this, and more than my pen can possibly describe, the people of North Carolina submitted with long-suffering patience. They were spirit-broken by the results of the war—the desolation of their homes and the slaughter of their sons. They were worn down to the earth by the degradation imposed upon them by the negro-equality of the Civil Rights Bill and all the racking evils of the times. But a day was coming when their ancient spirit was once more to re-assert itself. That Legislature which had robbed them of their substance, finally attempted to rob them of their vital liberties.

Under the pretence of suppressing internal disorders, it passed a bill known as the Schoffner Act, by which the Governor of the state was authorized to declare any county in his discretion to be in a state of insurrection; to proclaim martial law over it, and to arrest summarily and try by a drum-head court all accused persons. To enable him to execute this law, he was authorized to raise two regiments of soldiers, to be

used at his discretion. This he proceeded to do. One regiment was composed of negroes enlisted in the eastern counties; the other was composed of supposed white men from the mountains of East Tennessee and North Carolina,—deserters, renegades and cut-throats, for the most part,—under the command of one Kirk, of infamous memory. This vile and ill-assorted crew descended from the mountains and repaired to Raleigh to be armed and equipped, spreading terror as they went. They were dispatched to the counties of Orange, Alamance and Caswell, where they immediately proceeded to make quite a number of arrests. A court-martial was convened for the trial of the prisoners. All this in a time of profound peace. The whole country took alarm and began to blaze. The quiet pride of old North Carolina could stand the plunder of her substance, but would not endure the deprivation of trial by jury. The writ of *habeas corpus* was instantly applied for, to Chief Justice Pearson, who granted it readily, but with instructions to the marshal endorsed upon it, that if the Governor, upon whom it was to be served, should refuse to obey, he was to make return of that fact to him. Upon his intimation, Governor Holden of course declined to obey, whereupon the chief justice quietly declared that the power of the judiciary was exhausted, notwithstanding the fact that there was a statute authorizing him to summon the *posse comitatus* in aid of the execution of his own writs. A sad commentary on our condition indeed, when a great and learned judge should so far yield to the disorders of the times as to shrink from the performance of a solemn duty in this way.

It was with the greatest difficulty that the cooler-headed men of the state restrained the impetuous youth; but they did. Happily an election for attorney-general and members of the Legislature was approaching, and would be held in the ensuing August of 1870. All violence was averted in the hope that the offending Governor and exhausted judiciary would hear the voice of the people, if they would not hear *the voice of conscience.* And it was so.

Although troops were stationed in various points of th *state to intimidate* the voters, and though Governor Hold

was assured by public dispatches of the support of President Grant, and though leading editors and public men were arrested or threatened with arrest, yet the people went to the polls with a calmness and a determination never equaled in our state. The disfranchised white citizens had then their first chance at the ballot-box, whilst hundreds and thousands of the better sort of Republicans voted with them.

The state was redeemed amidst the thankful prayers of all honest men. The Legislature was largely Democratic, and it proceeded promptly to repeal all obnoxious legislation—that including the issue of bonds, and the Schoffner Act in particular—and to the impeachment of the Governor.

Reconstruction and its outrages were at an end in North Carolina. Its consequences, alas! were not so easily effaced. That great debt still hangs as a cloud over our people, threatening their credit and retarding their prosperity. The compensation for all these ills which we suffered we hope to reap from the lessons which suffering ever teaches. I am also in the hope that this recital of these unhappy events may tend in some degree to soften the opinion and mitigate the judgment of many of my impartial countrymen in the Northern portion of our Union towards the people of North Carolina and their conduct in the ordeal through which they they have passed; as well as upon that unfinished journey which is before them, so thickly beset with the disturbing results of civil war.

ZEBULON B. VANCE.

CHAPTER IV.

RECONSTRUCTION IN SOUTH CAROLINA.

WHEN the acts of March 2d and March 23d, for the reconstruction of the late Confederate States were passed, the Governor of South Carolina was the Hon. James L. Orr, a man of great ability and sagacity, and of well-known conservative views, who afterwards held high position in the Republican party.

The first step by the new citizens in the process of reconstruction was the election of delegates to a convention called to meet in January, 1868, in Charleston, for the purpose of framing a state Constitution. It was composed of thirty-four whites and sixty-three blacks. At the time, the body was said to be made up of Northern adventurers, Southern renegades, and ignorant negroes. Many of the members of the convention afterwards became prominent in the Legislature, in state offices, and in Congress, and the reader, as he follows these pages, which give some account of their actings and doings, can form his own opinion as to whether the above description is true of those of whom it was spoken.

The constitution was adopted in April, 1868, by the votes of the negroes upon whom the right to vote had not then been conferred, either by the Constitution of the state or United States; and whose right to vote at all, upon anything, so far as state authority was concerned, was the very question to be settled by the Constitution which they themselves voted to adopt. For while the reconstruction acts of Congress assumed to confer the elective franchise upon the negro, the Fifteenth Amendment to the Constitution, which, in the words of the proclamation of President Grant, "makes at once four millions of people voters," was ratified on March *30th, 1870.*

The Republicans named as their candidate for Governor, General R. K. Scott, of Ohio, who was one of the officers of the Freedmen's Bureau in the state, and the Conservatives, as then called, embracing the reputable tax-payers of the state, nominated the Hon. W. D. Porter, of Charleston. Mr. Porter was a gentleman of liberal views, of the highest integrity and ability, and had long been recognized as one of the foremost citizens of the state. If the newly-fledged citizens had desired that public affairs should be honestly and wisely administered, they could have chosen no better man. Instead of that, General Scott was elected by a majority of two to one, and he and his associates took office under the new Constitution on July 9th, 1868.

The General Assembly, then elected, consisted of seventy-two whites and eighty-five colored members. In the Senate were seven Democrats, in the House fourteen; the remaining one hundred and thirty-six were Republican. F. J. Moses, Jr., a white man, a native of the state, whose character is properly delineated in the words of Governor Chamberlain, quoted hereafter, was chosen Speaker of the House of Representatives.

With the inauguration of Governor Scott and the meeting of the General Assembly elected with him began the reconstruction legislation of South Carolina.

Mr. James S. Pike, late Minister of the United States at the Hague, a Republican and an original abolitionist, who visited the state in 1873, after five years' supremacy by Scott and his successor, Moses, and their allies, has published a pungent and instructive account of public affairs during that trying time, under the title of "The Prostrate State." The most significant of the striking features of this book is that he undertakes to write a correct history of the state by dividing the principal frauds, already committed or then in process of completion, into eight distinct classes, which he enumerates as follows:—

1. Those which relate to the increase of the state debt.
2. The frauds practiced in the purchase of lands for the freedmen.
3. *The railroad frauds.*

4. The election frauds.
5. The frauds practiced in the redemption of the notes of the Bank of South Carolina.
6. The census fraud.
7. The fraud in furnishing the legislative chamber.
8. General and legislative corruption.

That is one way, and a very good one, to treat the subject to be discussed. I will not do this, however, but will endeavor to give a brief account of some of the more important events as they occurred under each administration, in a somewhat chronological order.

A law providing for the holding of the next general election was naturally among the first things that received legislative attention.

The act passed contained fifty-seven sections and was well devised for its purpose. Its four chief features were:

1. Providing for the appointment by the Governor of the three Commissioners of Election for each county, who were authorized to appoint all the managers at the various polling precincts.

2. Failure to provide by law either for the number or location of the voting precincts in the state, and leaving with the Commissioners of each county the absolute power to designate the number of precincts in their respective counties, at any place and at any time, even on the day of election, and that without any notice to the voters.

3. Failure to provide that the voters should be sworn by the managers when they presented themselves to vote.

4. The omission of any penalty whatever for the violation of the election law by illegal voting or repeating.

As the Commissioners were usually candidates themselves; as they fixed the polling precincts most convenient for their own party and most inconvenient for their opponents; as Governor Scott refused upon application to appoint one Commissioner from the opposition, and as the Republican General Committee refused to permit a committee composed of members of both political parties to watch the ballot boxes until the vote was counted; the prospects of a fair and honest election *were necessarily dim* and discouraging.

An act was passed in 1869, defining the civil rights of the new citizens, which contained one or more very noticeable features. After defining what the rights and privileges of the colored man should be on railroads, in theatres and other public places, it changed the long established rule of evidence that all men shall be considered innocent until proved guilty, and expressly enacted, that if the person whose rights under the act were alleged to have been denied, happened to be colored, then the burden of proof should be on the defendant; so that any person or corporation named in the act, if simply accused by a person of color, was thereby to be presumed to be guilty and was liable to be subjected to heavy penalties, upon this mere accusation, without a particle of proof from the plaintiff or any other witness.

The prosecuting officers of the state were specially directed by the statute to "rigorously" enforce the provisions of this law, under pain of heavy fines and forfeitures.

Immediately upon the inauguration of the new officials and the meeting of the General Assembly was begun that system of extravagance, profligacy and corruption which ruled almost unhindered through the entire eight years of Republican domination in the state, which made South Carolina notorious throughout this whole country and drove the respectable people of the state almost to despair.

There is great difficulty in portraying in an interesting way the true condition of public affairs at this period of the state's history. The whole Government and every part of it was so rotten and the corruption so great and all-pervading that the simple recital of the facts soon dulls the sensibilities and wearies the indignation of the reader and he is tempted to turn away in disgust.

Without attempting to give in detail the many acts of corruption that marked the career of the Republican administration, let me mention some of the more prominent by way of examples of the whole.

When the Republicans first met in Legislative Assembly in 1868 they used the same building which the whites had occupied before them and furnished the halls in an inexpensive *manner and one best* suited to the impoverished condition of

the state. As soon, however, as they were more firmly fixed in power and became more accustomed to making appropriations from public funds they exhibited most luxurious taste. They undertook to furnish anew the halls of legislation in the State House. For clocks that cost five dollars two years previous they substituted in 1871 and '72 clocks at six hundred dollars: for forty cent spittoons, eight dollar cuspidors: for four dollar benches, two hundred dollar crimson sofas: for one dollar chairs, sixty dollar crimson plush gothic chairs: for ten dollar desks, one hundred and seventy-five dollar desks: for four dollar looking-glasses, six hundred dollar mirrors, etc., etc.

The entire bill for furnishing the Hall of the House of Representatives was over $50,000, and the Legislature thinking that entirely too small appropriated $95,000, to pay for it. Within the past year this hall has been nicely furnished anew at an expense of $3,061.

The total amount paid out for furniture alone in four years was over $200,000, and in 1877 when this question was investigated there remained in the State House only $17,715, worth as appraised at the prices originally charged for it. At least forty bed-rooms were furnished at the expense of the state, and some of these as often as three times.

Another item of expense was designated "supplies, sundries and incidentals" and this amounted in one session of the Legislature to $350,000. Of this sum $125,000 was spent in maintaining a restaurant in one of the committee rooms of the Capitol, including liquors and cigars to which all officials and their friends helped themselves without cost except to the tax-payers. This restaurant or bar-room was kept open every day for six years, from eight o'clock in the morning till three o'clock the following morning.

While legislation was pending in the United States Congress to take the census of 1870 the General Assembly of South Carolina, by way of showing a want of confidence in the ability or fairness of the same party in Washington, provided for a census of the state under state authority. Of course it was not so elaborate as the United States census but while the *total cost of the extensive* work done by the latter, except

the mere compilation in the census office, was $43,203.13, the tax payers of South Carolina, for a perfectly useless enumeration had to pay $75,524.00.

Many years prior to the late war South Carolina established a State Bank whose bills the state was bound to redeem.

In proceedings in Court, begun in Charleston, against the Bank subsequent to the late war, advertisement was made extensively over the country for about eighteen months for all holders of these bills to present them to the Court, and less than $500,000 were presented under this order and advertisement.

The Legislature then came forward and appointed a committee to count these bills with a view of having them funded in state bonds.

To the absolute astonishment of every body, what the Court had found to be $500,000 of Bank bills, this committee reported to be $1,258,550, and under an act of the General Assembly of September 15, 1868, bonds of the state were issued to the amount of $1,590,000 to redeem these bills. In the words of Mr. Pike, above quoted: "By this one simple operation the state thus appears to have been defrauded of a round million."

It was generally alleged and credited that most of the state officials, as well as members of the legislature were holders of these bills, Governor Scott himself being interested to the extent of $50,000 or $60,000. Joseph Crews, one member of the legislative committee appointed to count the bills, deposited $30,000 of them in a bank in Columbia soon after the bonds were issued, and when the bills ought to have been, and the public supposed they had been destroyed.

Among other measures to which attention was given by the General Assembly during Scott's first administration was one of an apparently humane purpose, and if it had been honestly and prudently carried out might have produced some beneficial results. This was the establishment of the Land Commission, the alleged object of which was to buy homes for the homeless, and for this purpose the Legislature appropriated in March 1869, $200,000 and in March 1870, $500,000.

One not thoroughly acquainted with the character of the *public officials of the state* at that time might suppose that

while they would rob the state and fleece the tax-payers they would spare the poor ignorant and homeless negroes for whose benefit this money was appropriated and by whose votes these officials obtained the power to plunder the state and insult and over-ride her decent people.

From official sources it appears that $802,137.44 was spent by the land commission, and that with this sum was purchased 112,404 acres of land. There were a few cases in which the land was good and the prices probably fair, but the character of the majority, both as to quality and price, may be gathered from the report of an investigation made by a committee of the Republican Legislature. One sandbed of 6,918 acres not worth $1 per acre was bought for $44,418: one tract of 3,200 acres worth about $1,500 was bought for $19,500 and another large tract known as Hell-hole Swamp, was bought for $26,100 and charged to the state at $120,000. These lands as a whole were so utterly worthless that to have supported one able-bodied freedman upon them would have been regarded as the greatest of agricultural achievements. No motive except that of public plunder can be assigned for purchases of this kind unless the then land commissioner thought to settle the negro question in South Carolina by starving him to death.

During Governor Scott's first term he did not omit to put in operation every engine which ingenuity could suggest to secure his renomination and re-election as his own immediate successor.

On March 1st, 1870, he approved an act of the General Assembly for the government of general elections. Unlike the act of 1868, it required that the voters should be sworn before voting and provided a penalty for illegal voting. It is remarkable however for three things:

1. It failed to make provision for the registration of voters as expressly required by the Constitution, and as had been done in the act of 1868.

2. It failed as in the previous act to fix either the number or places of the election precincts in any county, and left it entirely in the power of the commissioners of election of each county to designate any number and any places as precincts for holding *the election, on* any day before the election, or eve

on the very day itself, and without any notice whatever the voters.

3. It failed to provide for the public counting of the vc at the close of the polls, and expressly gave the managers pov to take the boxes and votes and hold them for three days bef returning them to the commisioners of election to be count and to these commissioners it gave the power to hold boxes and ballots for ten days before declaring the result.

In a report made by Judge Poland, a prominent and a Republican of Vermont, as chairman on the part of House, of a Congressional committee appointed in Ma 1871, to investigate the condition of the late Confederate sta is found this comment on the election laws of South Caroli

"The election law of the state is one which could not better calculated to produce frauds by affording the facilit to commit and conceal them, and tempted by these facilities cannot doubt that in many instances they were committed."

On March 16th, 1869, the Governor approved "An A to Organize and Govern the Militia of the State of Sou Carolina," which made provision for the organization of t militia into regiments, battalions, etc, as the Governor mig deem expedient. It then provided that there should be military organizations or formations for the purpose of ar ing, drilling, exercising the manual of arms, or milita manœuvres not authorized by the act and by the Command in-Chief, and subjected any citizen violating this act to pu ishment in the penitentiary, at hard labor, for not less th one nor more than three years. Under this act the Goverr refused to receive any but colored companies. The penalt for exercising the manual of arms were intended to, and d prohibit any but those whom he authorized from enjoyi this privilege.

On February 8th, 1869, an act was passed authorizing t Governor to employ an armed force, who were to be moun and fully equipped; and on the 16th of the same month was empowered "to purchase two thousand stand of arm

In 1870 Governor Scott was renominated by the regu Republican convention, and R. B. Carpenter, himself a R *publican, then regarded* as among the ablest and most ave

able of the new statesmen, was nominated by the "Reform Party," composed of the whites and dissatisfied Republicans.

Governor Scott, becoming apprehensive as to his reëlection, soon made apparent the motives that had prompted the passage of the four acts of the General Assembly above specified.

Ninety-six thousand colored men were enrolled in military companies throughout the state, the simple enrollment costing the state over $200,000; the Governor in this way furnishing employment and compensation to his political "strikers" and "heelers" at public expense. The Adjutant General, F. J. Moses, Jr., bought one thousand Winchester Rifles for about $38,000, and one million "central fire copper cartridges" at a cost of $37,000. On the order of the Governor the Adjutant General went to Washington and procured ten thousand Springfield muskets from the general government, thus anticipating for years in advance the state's quota of arms. These he had changed to breech loaders, which, with alterations in the accoutrements and the purchase above referred to, cost $180,750. Of which Moses, by his own confession, through fraud, was to get $10,000. It was all charged to the state at $250,000.

There were only two or three white companies in the state, and they were ordered by Governor Scott to surrender their arms and disband; and fourteen full regiments of negroes were organized before the election. These were fully armed and equipped and ammunition issued to them, as upon the eve of battle.

When called out on duty they were to be paid under the act, and were, in truth, paid the same compensation as officers and soldiers of the same grade in the Regular Army; and it was held by the authorities of the state at the time, that when they were attending political meetings in advocacy of Scott's election, they were "on service" within the meaning of the statute. Before a committee of the Legislature, ex-Governor Moses testified as follows with reference to organizing the militia: "The militia was organized and armed for political purposes by the advice and consent of Governor Scott, and I was commissioned by Governor Scott to proceed to Washington *and procure all the* arms and accoutrements possible from

the United States Government, and at the same time purchas ammunition and make the contract referred to. The obje was to arm and organize the militia for the campaign i 1870."

The "armed force," or constabulary, was organized an maintained for the same purpose. I quote from two of th reports made by deputies to the chief constable. On Jun 25th, 1870, J. W. Anderson, deputy constable, says: "W can carry the county (York County) if we get constable enough, by encouraging the militia and frightening the poo white men. I am going into the campaign for Scott."

On July 8th, 1870, Joseph Crews, deputy constable fo Laurens County, says: "We are going to have a hard cam paign up here, and we must have more constables. I wil carry the election here with the militia if the constables wil work with me. I am giving out ammunition all the time Tell Scott he is all right here now."

John B. Hubbard, the chief constable, testified before a legislative committee, in 1877: "It was understood that b arming the colored militia and keeping some of the mos influential officers under pay, that a full vote would b brought out for the Republicans, and the Democracy, or many of the weak-kneed Democrats intimidated. At the time th militia was organized there was but, comparatively speaking little lawlessness. The militia, being organized and armed caused an increase of crime and bloodshed in most of th counties in proportion to their numbers and the number o arms and amount of ammunition furnished them." Again, th chief constable says: "Ostensibly the object of the con stabulary force was for the preservation of the peace, but i reality it was organized and used for political purposes an ends. Governor Scott would order me to send men to any county where the Republican party most needed encourage ment and reorganization. The deputies were authorized an instructed to attend all political meetings and report the po litical condition of the county to me, and I would report th same to the Governor."

Of the constables thus employed twenty were elected t *the Legislature or to* county offices. They were paid by th

state their mileage and *per diem* while they overrode the white people of the state and made sure of the election of Scott and themselves to office.

In 1869 of 506 convicts in the State Penitentiary 186 were pardoned, and in 1870, the year of the election, of 575 there were 205 pardoned, so that in one year more than one-third of all the criminals in the penitentiary were turned out by the Governor to prey again upon the people.

Governor Scott spent $374,000 of the funds of the state in his canvass, and by means of this and the convincing power of armed militia, state constables and pardoned convicts, he beat his opponent over 30,000 votes and was thus enabled to inflict himself for a second term upon the state.

In 1870 the appropriations by the General Assembly had reached a very extravagant sum and Governor Scott vetoed a bill for legislative expenses, in which he uses the following language: "I regard the money already appropriated during this session, and the sum included in this bill, amounting in the aggregate to $400,000, as simply enormous for one session. It is beyond the comprehension of any one, how the General Assembly could legitimately expend one-half that amount of money." This was most unusual conduct on the part of the Governor, and so far as I can remember or have learned, is the only occasion in which he was ever seized with a spasm of virtue or exhibited any indignation at the conduct of the Legislature. Neither before nor after this was there ever the slightest adumbration of such a spirit.

In 1871 it was discovered that the Financial Board had illegally issued several millions of state bonds, and it was determined by some members of the Legislature that Parker, the treasurer of the state, and Scott the Governor, both of whom were members of this board, should be impeached for high crimes and misdemeanors. When these proceedings were about to be successfully carried through the House of Representatives, Scott became very much alarmed, and in order to save himself from the disgrace of being impeached he sent for two of his political associates and issued to them three warrants upon the armed force fund, leaving the amount *blank, to be filled* in by any sum the holders deemed

necessary. These three certificates were afterwards filled up so as to aggregate $48,645, and with this amount of money these two associates of the Governor, by bribing members of the Legislature, were enabled to prevent the passage of the resolution of impeachment. During the proceedings it became necessary to obtain some rulings from the Speaker of the House, and in order to secure these the member who made the motion on which the rulings were based was paid $500 for his services and to Speaker Moses they paid $15,000. The warrants drawn and signed by the Governor were all made out in the names of fictitious persons and these names were indorsed upon them and the money drawn from the treasury of the state. It was understood, of course, at the time that the names were fictitious and that the money was to be used for the purpose of buying the votes of members of the Legislature to prevent the impeachment.

The policy of South Carolina for some years before the war had been to give state aid to railroad enterprises, and as a consequence she had become directly and financially interested in several of the principal roads of the state.

To rob the state of the most valuable of this property and convert it by "due process of law" into their own pockets, Governor Scott, John J. Patterson and others of their associates, inaugurated some schemes which did not reach their full fruition until Scott's second term. Let me mention two cases.

In 1868 the Legislature passed an Act authorizing the issue of $4,000,000 of bonds of the Blue Ridge Railroad Company, then constructed for a distance of about thirty miles, guaranteeing their payment and reserving a lien on the road and its franchises to save the state from loss. At the same session it passed a similar act authorizing the Greenville and Columbia Railroad to issue $2,000,000 of bonds guaranteed by the state and reserving a statutory lien on the road to save the state harmless.

The stock of the Blue Ridge Railroad was owned principally by the state and the city of Charleston, and was controlled by the Governor of the state and the Mayor of that city; and shortly after the guarantee by the state of the

$2,000,000 of bonds of the Greenville and Columbia Railroad its stock was bought up by John J. Patterson (subsequently United States Senator), Governor Scott and other state and legislative officers.

21,698 shares of this stock were owned by the state which, in 1869, was valued by the controller at $433,960.00. A bill was passed through the Legislature by bribery and the procurement of these officials for the sale of the state stock, which was approved March 1, 1870, and the next day without advertisement or notice to the public they became the purchasers for $59,669.50, all of which was paid out of funds of the state by an understanding with and the manipulation of H. H. Kimpton, the financial agent of the state in New York. This stock did not cost the purchasers one cent.

After this ring thus became the owners of the Greenville and Columbia Railroad the Legislature released the two roads, the Blue Ridge and the Greenville and Columbia, from all liability on account of the bonds issued under the former acts, and left the state with a debt of $6,000,000 from this source and nothing whatever to show for it.

As the years went by and the management of public affairs for private gain became the settled and acknowledged policy of the state there grew up three regular combinations amongst the higher officials of the state, designated as the "Bond Ring," the "Legislative Ring" and the "Printing Ring." The first of these had its foundation in the following legislation: Not long after Governor Scott entered upon his first term as Governor the Legislature provided for the creation of a Financial Board, and for the appointment of a Financial Agent in New York. The agent appointed was one H. H. Kimpton. He had no reputation warranting his selection for such a responsible trust; he gave no security and there appears to have been no contract made with him as to the amount of his compensation. He was entrusted during about two years' operations with $2,700,000 of state bonds and the interest and other charges, not including his commissions, *amounted in one year* to $94,777.42, or $7,914.78 per month, *which made the funds* advanced to the state cost about seven*teen per cent.* per annum over and above his commissions.

All the risk and expense of this agency for the first two years of its existence resulted in the sale of $1,000,000 worth of bonds at the moderate figure of seventy cents on the dollar, and the cost of effecting this net result in that time was certainly as much as $159,974.13 and how greatly in excess of that it is impossible to ascertain. In his report of September 30th, 1872, which appears to be the last made by him, we find that he sold in September of that year $4,214,500 of South Carolina bonds for $1,238,344 and that on the balance of $1,627,075.63 in his hands October 1st, 1871, his interest and commission charges for one year amounted to $382,936.68.

It is impossible to ascertain or state fully the management or manipulation of the finances of the state through the agency of this man Kimpton. Before a Legislative committee he acknowledged "the incorrectness of his accounts, and admitted that he was directed by the financial board not to make real but fictitious entries; so frightfully large were the expenses of the transactions of the agency, in negotiations of loans, etc., the board thought it best to keep the true amounts in disguise."

Mr. Pike in his "Prostrate State," speaking of the state finances in 1873 says: "But, as the treasury of South Carolina has been so thoroughly gutted by the thieves who have hitherto had possession of the state government, there is nothing left to steal. The note of any negro in the state is worth as much on the market as a South Carolina bond. It would puzzle even a Yankee carpet-bagger to make anything out of the office of State Treasurer under the circumstances."

During the six years from 1868 to 1874 that Scott was the governor of the state, F. J. Moses, Jr., was the speaker of the House of Representatives.

His chief mode of illegally procuring public funds was by the issue of pay certificates, which under the law the presiding officers of the two houses of the General Assembly were authorized to issue for the payment of the salaries of the members and senators and attaches of the two Houses. Out of this power and the constant exercise of it grew up what *was familiarly known* as the "Legislative Ring."

This "Ring" was composed of the presiding officers and clerks of the House and Senate together with the state Treasurer and some minor officials. These certificates could be issued legally only for the payment of members and attaches of the General Assembly, but soon it became the regular means by which the members of this ring kept even with their associates of the other rings in the general plundering of the state. Eight porters were employed in the State House and certificates issued to 238: 10 messengers employed and certificates issued to 140 at one session, and 212 at another: 8 laborers and 5 to 10 pages were actually in service while certificates were issued to 159 laborers and 124 pages. Of one lot of 150 certificates nominally given to clerks not one was legal. During one session pay certificates were issued amounting to $1,168,255. All of which, except $200,000 was pure and untarnished robbery.

Moses admitted under oath that at the request of Jno. J. Patterson, he had issued at one time to the latter who was not a member of the General Assembly, $30,000.00 in certificates upon his paying to him $10,000 in money therefor.

If any one of these three chief "rings" that controlled the public purse and managed the state's affairs in those days was more audacious than its co-operative rings it was the "Printing Ring."

This like the others was composed chiefly of state officers, the Governor, Attorney-General and others being members.

The total cost of printing in South Carolina for the 8 years of Republican domination, 1868 to 1876, was $1,326,589.00. Total for printing for 78 years previous, 1790 to 1868, was $609,000.00; showing an excess for cost of printing in 8 years over 78 years previous of $717,589.00.

The average cost of the public printing under the Republican administration per year was $165,823.00; average cost per annum under former administrations, $7,807.00; cost for one year under Hampton's administration, $6,178,00.

Amount appropriated in one year 1872–73 by Republicans for printing $450,000.00; Amount appropriated in 25 years ending 1866, $278,251.00; Excess of one year's appropriation over 25 years, $171,749.00.

It would be easy to present these startling amounts in other lights and compare them with appropriations for the same purpose in other states, showing for instance that the cost of printing in South Carolina in one year exceeded by $122,-932.13 the cost of like work in Massachusetts, New York, Pennsylvania, Ohio and Maryland together, but these unadorned figures speak so powerfully that nothing can be added to their force.

Of course all these immense sums did not reach the pockets of the "ring." A large part of them had to be paid to senators and members to smooth the way for their bills through the Legislature.

For the passage of one printing bill for $250,000 they paid to members and senators and others, various sums aggregating $112,550.

During Scott's second administration he maintained his former record by pardoning 247 convicts.

In the Autumn of 1871 General Grant, then President of the United States, issued his proclamation suspending the writ of habeas corpus in nine counties of the state, and sent a large military force into these counties to arrest persons charged with crime.

About six hundred citizens of the state were arrested and held in jail for weeks and months; some of them were tried in the United States courts and convicted, and were sentenced to pay fines ranging from $20 to $1000, and to suffer imprisonment from one month to five years.

Before the suspension of the writ of habeas corpus there had been outbreaks of violence in several counties, the cause of which was fully explained by Judge Carpenter, a prominent Republican official of the state, in his testimony given before the Congressional Committee, in 1871.

He says in substance that the pardoning of criminals, the election law and other things of a like character were the sole causes of men taking the law into their own hands. There was a great deal of excitement, a great sense of insecurity and a great feeling of indignation. The appointees to office were *not only* incompetent, but corrupt. Men were made School *Commissioners who* could neither read nor write. Salaries

were increased, public offices multiplied, while the only business of the officers seemed to be to prey upon the people.

The most peaceable citizens of the state felt that they were without a government to protect them; that in fact the government was inimical to them; that it protected and rewarded the criminals while it punished the innocent and law-abiding. Under such circumstances it is not to be wondered at that men would try to do something to protect themselves.

Towards the end of Scott's second term the political parties made their nominations for state and other offices. The Republicans named as their candidate for governor F. J. Moses, Jr., who had been for the four previous years Speaker of the House of Representatives. The Conservatives and Bolting Republicans supported for the Governorship Reuben Tomlinson, who was thought to be the one Republican most likely to bring about some reform. Both parties criticised severely before the public the practices of Scott's administration, and promised a correction of them. Moses was elected by the usual majority. A Republican writer, in October, 1873, gives this opinion of the past and the existing administration:

"The whole of the late administration, which terminated its existence in November, 1872, was a morass of rottenness, and the present administration was born of the corruption of that; but for the exhaustion of the state, there is no good reason to believe it would steal less than its predecessor."

In 1860, the taxable value of property in the state was $490,000,000, and the taxes a little less than $400,000. In 1871, the taxable value had been reduced to $184,000,000, and the taxes increased to $2,000,000. Thus while the property of the state, between 1860 and 1871, had been reduced to a little over one-third of its former amount, the taxes, in the same period, had been increased five hundred per cent. In 1874, the last year of Moses' administration, the property of the state was assessed for taxation, and the assessment fell from $30,000,000 to $40,000,000 below the aggregate of the previous assessment In 1874, 2900 pieces of real estate in Charleston county alone were forfeited for *taxes. In 19 counties* taken together, 93,293 acres of land

were sold in the same year for unpaid taxes, and 343,971 acres were forfeited to the state for the same reason. By the beginning of the term of F. J. Moses, Jr., and after four years of Republican rule, the debt of the state had increased from $5,407,306 to $18,515,033; including past due and unpaid interest for three years. During three years no public works of any importance were begun or finished. The entire increase of $13,000,000 of debt represented nothing but unnecessary and profligate expenditures and stealing.

The intelligent property owners of the state, having practically no influence on legislation, realizing the dreadful condition to which they were being reduced, and knowing that no redress could be had through any branch of the state government, organized in 1871, what was known as the Tax-payers' Convention. This body, as a whole, was thoroughly representative of the virtue, intelligence and property of the state. They discussed fully the condition of public affairs and issued an address to the public, in which they set forth the status of the public debt, the financial condition of the state, etc., and hoped in this way to bring to bear the honest sentiment of the country in favor of a change, and thus stay, in a measure, the hand by which they were being ruined. Their effort produced no appreciable results.

In 1874 another convention was held, in which again the dreadful state of affairs was plainly and fully made known, and an appeal issued to the country.

In addition, a large committee was appointed to proceed to Washington to lay before the President a full statement of the condition of our affairs, and to make known to him the position to which we had been reduced, and to invoke his aid toward providing some relief.

With some difficulty, a meagre sum was raised from the impoverished people to meet the expenses of this committee, but before they could reach the National Capital the state officials drew $2,500 of the money of these same tax-payers *from* the treasury, and sent several of their number to see *the President and* arrange that no heed should be given to *the committee of* citizens. So completely successful was *their mission that* when the committee of tax-payers arrived

the mind of the President was completely closed to their appeal and they were not even heard with patience. Thus again the efforts of the tax-payers proved utterly futile.

Upon the Legislature that was elected in 1872, devolved the duty of choosing a United States Senator. There were three candidates, namely: R. B. Elliot, who based his claims on the fact that he was the leading negro politician of the state; R. K. Scott, who had just retired from the Governorship and claimed this further honor on account of his services to his party, and John J. Patterson, who relied solely on his money.

With such arguments and such a constituency, the result was never in any doubt. Before a committee of the Legislature, sixty witnesses from every part of the state testified under oath that Patterson had bribed members of the Legislature to vote for him. Most of these witnesses were either members, who had themselves taken the money, or friends of members who were present when this contract was made or the cash paid, or the agents and workers of Patterson, who had been personally engaged in contracting for and settling for the votes.

Votes, in that election ranged from $25 to $2,000. This last sum, of which one half was paid, having been offered in the Senate Chamber while the election was in progress between the first and second ballots, to the Senator who had nominated Scott and who says "that with some hesitation he voted for Patterson."

Two remarks of Patterson which are on record and preserved, tell the story of this whole transaction in very succinct form.

Early in the canvass he stated to a member of the House, that $75,000 if necessary. would be spent in securing his election, and at the end he declared that "the d—d election had cost him more than it was worth." Charges of bribery were made against Patterson, and he became so much alarmed at the prospects of a prosecution that he appealed to Governor Moses, and the latter removed the jury commissioner of the county and had a friend of Patterson's appointed for the pu

pose of having jury lists made up to secure the new Senators' safety, and it was done accordingly. Patterson occupied a seat in the United States Senate for six years, but he represented nothing whatever, in South Carolina. He represented simply his own pocket-book.

During Moses' administration the pardoning of criminals became a simple matter of bargain and sale. Any convict who had strong friends or a long purse, was in no danger of having to serve out a sentence in the Penitentiary. So common and notorious did the pardoning of criminals become, that judges announced from the bench, their unwillingness to put the people to the expense and trouble of convicting criminals for the Governor to pardon. During his term of two years he issued 457 pardons. On October 31, 1874, there remained in the penitentiary only 168 convicts, and Moses pardoned 46 during the month of November following, which was the last month of his service as Governor.

In May, 1875, Governor Chamberlain declared in an interview with a correspondent of the Cincinnati *Commercial*, that when, at the end of Moses' administration, he entered on his duties as Governor, two hundred trial justices were holding office by executive appointment, who could neither read nor write the English language.

The jurisdiction of these officers in civil matters extended to actions on contract, for penalties and forfeitures, for injuries to person and property, and generally to all cases where the sum claimed did not exceed one hundred dollars.

Their criminal jurisdiction embraced practically all offences where the penalty of fine or forfeiture did not exceed one hundred dollars, or imprisonment in the jail not exceeding thirty days.

They had power to examine into treason, felonies, grand larcenies, high crimes and misdemeanors, and to bind over or commit those appearing to be guilty of these offences.

Every Trial Justice was empowered to admit to bail all persons except those charged with an offence, the punishment *of which was death, and* in the latter case, he could discharge *the prisoner if it clearly* appeared that the charge was no *bounded in probability.*

Any two Trial Justices could grant the Writ of *Habeas Corpus* as fully and effectually as the highest Judges in the state.

In December, 1873, the General Assembly passed an act to reduce the public debt and provide for its payment.

This act recognized as valid of the principal and interest of the debt, $11,480,033.91, and provided for the issue of new bonds of the state for fifty per cent. of the value of this, and repudiated outright $5,965,000.00 of bonds known as conversion bonds.

As the term of Governor Moses was coming to a close the nominations for state officers were made. The regular Republicans nominated D. H. Chamberlain, for the governorship, who had been the Attorney-General during Scott's administration; and the bolting Republicans placed against him John T. Green, a native, a Republican and a Circuit Judge, and again the Democrats or Conservatives joined them and supported their candidate.

The administration of state affairs under Moses had become so intolerably rotten and corrupt that the reputable and honest people of the state were outraged beyond all expression, and even the more cautious participants in the schemes of plunder were frightened into a manifestation of opposition to such a course. The election showed over 12,000 more votes than had been cast at any time since 1868, and the majority of the regular Republican ticket was reduced to about one-third of the usual number.

Governor Chamberlain, quite in contrast with his predecessors, talked reform after his election as well as before it. In his inaugural address he exposed unmercifully the extravagance of expenditures under the former administrations and insisted that there must be a change. He pointed out among other extravagances that the expenses of the Legislature for six years for mileage, pay of members and employees, etc., had been $2,147,430.97 and for executive contingent expenses $376,832.74.

Some portions of the negro militia organized and armed by *Governor Scott were still* in existence and in January 1875 a *serious affray occurred* in Edgefield county between men o *different races.* The usual course before that in all such ca

had been for the Governor to work up these troubles into
rections and have some negroes killed and then appeal
President for troops to suppress them. Governor Chaml
took the wiser course of simply issuing his procla
directing the militia and other military organizations
arm and cease all military exercises. This was done a
trouble was allayed at once. It was the first instanc
1868 in which a reasonable and just policy had been a
toward the white people of the state in such cases, an
astonishment and delight at receiving some kind consid
at the hands of their own state government was too n
to escape notice. The result fully justified the wisdom
Governor's course. During the first sitting of the Legi
of 1874–75, the Governor had a long and severe contes
the baser elements of his own party. They endeavo
have the State Treasurer, who was a strong friend
Governor, removed from office, but this was defeated
combination between the Democrats and some of the Re
can friends of the Governor. He vetoed during this
nineteen bills chiefly on the grounds of extravagan
profligacy, and in every one he was sustained by the
combination of political elements.

In the face of great and unrelenting opposition in hi
party Governor Chamberlain, by the aid of the Dem
and some of his political allies in the Legislature, had
able to accomplish some marked and wholesome refo
public expenditures, and for this he had won the warm
of a number of the leading papers and many of the p
nent conservative citizens of the State. His course had
much to allay race antagonism, had created a greater se
security in the public mind and given the people some g
for the hope of better days in the future.

These feelings were, however, entirely dissipated by o
of the Legislature of 1875, which set at defiance a
efforts at genuine reform in the state, and left no groun
any reasonable man to base a belief on that public
would ever permanently improve under the control
party then in power.

Eight judges were to be chosen that session. It

known that the Governor had expressed himself as being greatly interested in having selected men of ability and especially of personal integrity.

While he was temporarily absent the conspirators went into an election and chose for two of the most important posts in the state, F. J. Moses, Jr. and W. J. Whipper. Mr. Allen, the author of "Chamberlain's Administration in South Carolina," characterizes this action as "an offence against public honor and safety on the part of the legislative body more flagrant than any other which stained the era of reconstruction in South Carolina, and perhaps the most alarming legislative action in any Southern state."

On his return to Columbia and learning what had been accomplished by the Republicans of the General Assembly, the Governor declared, in a published interview, "This calamity is infinitely greater, in my judgment, than any which has yet fallen on this state, or, I might add, upon any part of the South."

A few days subsequent to this Governor Chamberlain in declining an invitation to the banquet of a New England Society said: "I cannot attend your supper to-night; but if there ever was an hour when the spirit of the Puritans, the spirit of undying, unconquerable enmity and defiance to wrong ought to animate their sons, it is this hour, here, in South Carolina. The civilization of the Puritan and the Cavalier, of the Roundhead and the Huguenot is in peril. Courage, determination, union, victory, must be our watchwords. The grim Puritans never quailed under threat or blow. Let their sons now imitate their example!"

The election of these men to two of the most important judicial positions in the state, in spite of all opposition, both inside and outside of the party in power, sent a thrill of horror through the entire commonwealth and aroused the people to an extent unprecedented for years.

Large meetings were held in nearly every county in the state, in which the firm determination was expressed that *these men should never* be permitted to enter as judges into the *courts of justice.* Fortunately the use of any forcible means *was obviated by the* refusal of the Governor to commissi

either Moses or Whipper upon legal grounds, which were afterwards, in another case, approved by the Supreme Court of the state. Whipper threatened to take his office by force, but was deterred from such a course by the prompt action of the Governor in issuing a proclamation, in which he declared that he would arrest him and every one aiding and abetting him as rioters and disturbers of the peace.

Governor Chamberlain, in a letter to President Grant, again characterizes these men chosen by his party as judges as follows: "Unless the entirely universal opinion of all who are familiar with his career is mistaken, he (Moses) is as infamous a character as ever in any age disgraced and prostituted public position. The character of W. J. Whipper, according to my belief and the belief of all good men in the state, so far as I am informed, differs from that of Moses only in the extent to which opportunity has allowed him to exhibit it. The election of these two men to judicial offices sends a thrill of horror through the state. It compels men of all parties who respect decency, virtue or civilization to utter their loudest protests against the outrage of their election."

The election to such places of these two men, not only wholly incompetent, but well known to be flagrantly dishonest and corrupt was the beginning of a change in the state.

At nearly every one of the mass meetings held in the different counties to protest against this action of the General Assembly, resolutions were adopted by the people, declaring that all hope of securing even a tolerable government under the dominant party had been dissipated and that the sole prospect of reform in public affairs lay in the reorganization of the Democratic party and its induction into power.

Governor Chamberlain quickly apprehended that this would be the result. In his first utterance for the public, after the Moses-Whipper affair, he said: "I look upon their election as a horrible disaster—a disaster equally great to the *state and to* the Republican party. The gravest consequences *of all kinds* will follow. One immediate effect will obvi*ously be the* reorganization of the Democratic party within

the state as the only means left, in the judgment of its members, for opposing a solid and reliable front to this terrible *crevasse* of misgovernment and public debauchery. I could have wished, as a Republican, to have kept off such an issue."

He rightly appreciated the situation. The negroes seemed to be elated by this defiance of decency upon the part of their chosen Representatives in the Legislature, and the whites were thoroughly aroused to a sense of the danger that confronted them. The negro militia in some portions of the state became greatly interested in parading and drilling, and the whites seeing this thought that it was prudent to be ready to take care of themselves and their families.

As a result of this condition of things there were several bloody encounters between the blacks and whites, in which a number of persons were killed and wounded.

These troubles, of course, did not conduce to a kindly feeling between the two races, and the sentiment that the intelligent tax-payers of the state must control public affairs or be ruined and driven from their homes continually grew and increased among the people.

For a time there was great difference of opinion among the leading men of the state as to whether it was wisest to try again the plan of compromising on a ticket with the opposition, or make a straightout Democratic nomination. The latter was finally decided upon. The other course had been tried for eight years and no appreciable benefit had been derived from it. And while the efforts of Governor Chamberlain in behalf of economy and decency had resulted in some temporary good, it had been made manifest that he was unable to control his own party.

In 1868 we had nominated for Governor an honorable and able citizen of the state; in 1870 we had joined in nominating an able carpet-bagger, whom the Republicans had before that placed on the bench; in 1872 we had, in conjunction with some Republicans, supported another carpet-bag Republican official who had some claims to honesty; and in 1874 we *had again given our* votes and influence to a native Republi*can of fair ability* and character who had been named for *Governor by the* dissatisfied Republicans.

In all of these several instances we had also nominated and supported tickets for the Legislature and county offices made up partly of blacks and partly of whites. We had held conventions of the tax payers and appealed to the country, and had sent a delegation to the Capital of the Nation for the purpose of acquainting the President of the United States with the true condition of the state, and had protested in every possible way against such inhuman tyranny.

All these efforts had proven to be worse than worthless, and it had become manifest that the real question that confronted the people of the state was one of race supremacy.

The Republicans renominated Governor Chamberlain and the Democrats put in the field a full ticket of white men, with General Wade Hampton at the head of it. The campaign that followed was the most exciting ever known in the state, and resulted in the election of the Democratic ticket.

With the installation of these officers and the meeting of the General Assembly began the first honest and economical administration that the state had known since the beginning of reconstruction, and from that time to the present the affairs of the state have been managed with a regard for the people's welfare. The public schools and the institutions for higher education have been cared for and supported. The interest on the public debt has been paid, and instead of selling six per cent. bonds of the state at twenty-five or thirty cents on the dollar, the four-and-a-half per cent. bonds of the state are now bringing more than par. Instead of salaries costing $230,800, as in 1872, they were reduced to $106,200 in 1876. In place of paying $712,200 for legislative expenses, as in 1871, this item was reduced to $42,000 in 1880. The public printing, which cost $450,000 in 1872, was reduced to $6,900 in 1878. The state, counties, towns and school districts have now no floating debt and all obligations are paid as they mature. Instead of profligacy we have honesty; instead of extravagance, economy; instead of uneasiness, we have contentment, and instead of rioting, peace.

The resources of the state are being greatly developed; the

manufacturing enterprises are multiplying wonderfully, and the people are looking to the future for still greater development of its industries and resources.

All we ask is to be let alone, and that, surely, is not so great a request that it cannot or ought not be granted.

JNO. J. HEMPHILL.

CHAPTER V.

RECONSTRUCTION IN GEORGIA.

"A military Republic, a Government founded on mock elections and supported only by the sword, is a movement indeed, but a retrograde and disastrous movement from the regular and old-fashioned monarchical systems."

"Absurd, preposterous is it, a scoff and a satire on free forms of constitutional liberty for frames of government to be prescribed by military leaders, and the right of suffrage to be exercised at the point of the sword." DANIEL WEBSTER.

THE Confederacy of Southern states had perished. Its great commanders had in succession surrendered their swords, and their ragged and hungry soldiers, weary of strife, had returned to their desolated homes. Mr. Davis was a captive, and the members of his cabinet were either prisoners or exiles. There was sincere and universal submission to the authority of the United States. The invading armies could not find a single armed enemy from Maryland to the Mexican border. Soon after the crops of that disastrous year had been planted, masters called up their slaves and informed them that they were free. The plow stood still, and the freedmen went to town. All the agencies of commerce were either destroyed or suspended. The private debts of a prosperous era had survived the means of payment. Of money there was none. The banks were broken and the treasuries of the towns, cities, counties and state were empty. Notes and bills of the state had become uncurrent, and the treasury notes and bank bills of the United States had not yet flowed into the country. There was cotton, now becoming valuable, stored away against *the evil day, but army* officers and treasury agents were hunting *this last resource* of a ruined people with unrelenting *rapacity. The* railroads were wrecked, and had no means

with which to replace their tracks and rolling stock. Cities and great tracts of country were in ashes. Colleges and schools were silent, the teachers without pupils and the children without teachers. Even the great charities and asylums of the State, at this time when they were most needed, were unable to take care of lunatics, the deaf and blind. From Tennessee to Savannah, a region twenty miles wide, had been ravaged, and even the seed corn, implements of husbandry and farm animals, had been destroyed or removed by the army of General Sherman. The means of social enjoyment were wanting, and thousands lacked even the means of subsistence.

And over this scene of confusion and wretchedness hung like a pall, the apprehension of pains and penalties, of proscription and humiliation.

There has not been such an opportunity for statesmanship since the War of the Revolution. The white population of the state in 1860 was 591,550, and yet the state had furnished to the Confederate armies 120,000 soldiers. (See address by the historian and scholar, Colonel C. C. Jones, Jr., LL. D., made at Augusta, April 25, 1889.)

Such unanimity and devotion were without a parallel in history. To support the cause of independence, the fortunes and lives of the entire people had been pledged. It is obvious that persecution would only endear that cause to all Georgians. On the other hand, magnanimous treatment would have vindicated those who had deprecated secession, and would have discredited the wisdom of those who had advocated that measure.

The Congress of the United States had, in July, 1861, resolved, that "this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those [Southern] states, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality and rights *of the several states unimpaired*, and that so soon as these *objects are accomplished*, the war ought to cease."

The author of this resolution was Andrew Johnson, then

Senator from the State of Tennessee, and, by the assassination of Mr. Lincoln, he was now the President of the United States. If he and his party had stood by the policy announced by Congress in 1861, there would have been very few in Georgia, in 1865, to defend the policy of secession.

The Governor was arrested by soldiers and lodged in prison. Fetters were riveted upon Mr. Davis, and he was kept in close custody for two years without bail and without a trial. Garrisons of United States troops, often colored soldiers, invaded every county and took charge of every court-house. The Freedmen's Bureau interposed between the farmers and their late slaves, and inaugurated distrust and estrangement where there should have been kindness and sympathy. Martial law and military tribunals displaced the old system of justice and the ancient jurisprudence. Justice was sold, and a recovery was a military capture. The writer saw a trial of a case of trover between two citizens before an Ohio lieutenant in uniform, without a jury. There was complete strangulation of the state, and the only security for life or property was the military power, or the strong hand. And in these conditions can be found the germs of the hostility which ensued between the races, and of the alienation which finally made the South solid against the Republican party.

On the 29th of May, 1865, was published the President's proclamation of amnesty, from which were excepted fourteen classes. These excepted classes included persons of experience and influence, all of whom would have gladly co-operated in the work of restoration, and also those "the estimated value of whose taxable property was over twenty thousand dollars."

The proclamation was in effect an executive decree of wholesale outlawry, and strange, as it may appear to lawyer and layman, informations were soon afterwards filed in the United States Court by the District Attorney, praying confiscation of the property of the proscribed classes. And these disgraceful proceedings, wholly unwarranted by law, resulted at last in a harvest of costs exacted as a condition of settlement from people who were unable to bear the burden. This abuse of judicial process, previously unknown in the South, soon became familiar as a means of extortion, and has

yet been fully eradicated in cases in which the Government is a party. Examples are not lacking to reinforce this statement.

On the 17th of June in the same year, the President issued a proclamation by which James Johnson was appointed provisional Governor of the state, whose duty it should be at the earliest practicable period to prescribe such rules and regulations as might be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of the state who were loyal to the United States; and the proclamation further provided that no person should be qualified as an elector, or should be eligible as a member of such convention unless he had been amnestied and was a voter qualified as prescribed by the constitution and laws in force prior to the 9th of January, 1861, the date of the attempted secession of the state. And the proclamation further directed the military and naval officers and forces in the Department of Georgia to aid and assist the provisional Governor; and the State, the Treasury, the Interior and Post-office Departments were directed to see that the laws of their respective departments were put in operation in the state, and the District Judge for the District of Georgia was instructed to hold his courts. The Attorney-General was directed to instruct the proper officers to libel and bring to judgment, confiscation and sale, property subject to confiscation. And the President further directed that if suitable residents could not be found for the Federal appointments in the state, then the several departments should make the appointment from other states. The citizens of the state being disfranchised as to Federal offices by the test oath, this proclamation was the first invitation to the carpet-baggers. They became very important factors in the subsequent history of the state.

This scheme of the President was a great departure from the plan of restoration which he had himself embodied in the resolutions of Congress before cited. But the provisional Governor entered upon his duties with the earnest co-operation of the people, because an opportunity seemed to have arrived for the substitution of civil government for military despotism. To the convention, which was soon after call-

there were chosen delegates of known conservatism and in many cases men who were originally opposed to secession. The ordinance of secession was formally repealed or rescinded, and a constitution was framed and adopted, abolishing slavery and conforming the state in all respects to the new conditions.

Under pressure from Washington, by the President and members of Congress, an ordinance was adopted by the convention for the repudiation of bonds, treasury notes and other obligations issued by the state during the period of the war. These securities had been sought by guardians and trustees for the investment of funds in their hands, and all prudent citizens hoarded them with care. The act of the convention, by which they were declared null, brought ruin on many widows and orphans, and reduced to penury many citizens too old to start life over again.

The Congress then in office was engaged in the consideration of a proposition to amend the Constitution of the United States so as to nullify these state obligations, and it was finally embodied in the Fourteenth Amendment. And these incidents first prepared the public mind to determine the legality of obligations of the state having the apparent sanction of law. The precedent was afterward followed with good reason, when the people recovered their liberties in 1871.

The General Assembly chosen by the people, as the Constitution provided, soon afterward met at Milledgeville, in the old capitol, and Charles J. Jenkins, a man of exalted character, an old Whig, was inaugurated as Governor. The Legislature laid the necessary taxes, made the appropriations required for the support of the Government, provided funds by loans for the immediate wants of the state, ratified the Thirteenth Amendment of the Constitution of the United States, invested the negroes with all the civil rights of white persons, except the right to vote and hold office, and, in fact, with all the privileges and guarantees enjoyed by them in many of the Northern States. Under these new laws, the white people of the state were allowed no greater superiority over negroes than the white citizens of the District of Columbia *had over the colored* population under the laws of Congress.

Alexander H. Stephens and Herschel V. Johnson, both of whom had been ardent Union men, Mr. Johnson having been a candidate for the Vice-Presidency on the ticket with Mr. Douglass, and Mr. Stephens a zealous and able champion of that ticket, and both of whom had, in the convention of 1861, eloquently resisted secession, were chosen as Senators to the United States.

It should also be noted that this General Assembly refused to ratify the Fourteenth Amendment of the Constitution of the United States, chiefly because it imposed political disabilities upon the leading men of the state, for no other reason than that they had served the people in the various positions to which they had been elected or appointed.

In March, 1866, Congress passed a concurrent resolution that no Senator or Representative should be admitted into either branch of Congress from any of the eleven states which had been declared to be in insurrection, until Congress should declare such states entitled to representation. Mr. Stephens and Mr. Johnson were repulsed from the Senate, and the gentlemen who had been elected to the House were scarcely able to present their credentials. Thus ignominiously failed the policy of restoration which the President had formulated and which seemed to coincide with the plan of Mr. Lincoln, and thenceforth the old Union party in Georgia almost disappeared. This flouting of the President and the revengeful temper of Congress, as shown in the debates of that period, against the white people of the South, dispelled all delusions, and all differences in that section practically ceased.

Leaving out the memory of long years of common sufferings and misfortunes, they had the same apprehensions of approaching oppression. Their only enemies in Congress belonged to the Republican party, and they were bitter and vindictive; their only friends in power were Democrats. Their situation united them with each other, and with the Democratic party.

All the measures of the Republican party from this time forth, touching Southern affairs, treated the Southern states, not as states in the Union upon the theory of the Constitution *on which the war had* been fought, but as conquered provinces.

On the 16th of July, 1866, Congress passed an act extending the provisions of the act establishing the bureau for the relief of freedmen, and enacting that the Commissioner should, under the direction of the President, appoint such agents, clerks and assistants as might be required for the proper conduct of the bureau. No limit was fixed for the number of these agents, and they were to be so far deemed in the military service of the United States as to be under military jurisdiction, and entitled to the military protection of the government. And the act further provided that the President should, through the Commissioner and the officers of the bureau and under such rules and regulations of the President, through the Secretary of War should prescribe, extend military protection and have military jurisdiction over all cases and questions concerning the free enjoyment of the personal immunities and rights conferred by the act, until the state should be duly represented in the Congress of the United States. Thus every bureau agent was a court with military jurisdiction. Such a court was established in every county in the state. These special tribunals were officered by persons who could take the test oath, and became the nurseries from which aliens and strangers disseminated among the negroes hate and rancor towards the white citizens. And Congress on the 13th of the same month appropriated $6,887,700 for the fiscal year beginning with the first day of the month for the support of the bureau, for salaries, clothing for distribution, for commissary stores, medical department, transportation, school teachers, repairs and rents of school-houses and asylums. Power limited by none of the safeguards to which freemen had been accustomed, the creation of an army of officers and employees whose number and functions were prescribed not by Congress, but by the executive branch, and a prodigal appropriation of money to be distributed by these officers without any defined accountability, were the prerogatives conferred on this extraordinary institution. And the administration of the system inevitably provoked irritation between the races, tempted the agents to foment the discords by which their *continuance* in office could be secured, and attracted the freedmen *from the farms to* the towns. In the towns the bureau

located the schools and dispensed provisions, and mendicancy and prejudice, and heard complaints.

In 1867, the acts known as the reconstruction acts of Congress were passed over the President's veto. These acts subordinated all government existing in the state to a military commander, conferring on him the authority to administer all the powers of the state, authorizing him to appoint and remove whom he pleased, and life and liberty were subject to such military commissions or tribunals as he might create. The courts of the state could sit, but only by permission of the general in command. Those who had been members of any state Legislature, or held any executive or judicial office in any state and afterwards engaged in the war against the United States, were disfranchised, and the other male persons in the state, without regard to color or previous condition, should be registered as voters by the officers of military creation, and these registered persons might vote at the election held under military supervision for or against a convention and for delegates to form a new constitution for the state if a majority should be cast for a convention. Congress by disfranchising and enfranchising whom it pleased, fixed the basis of suffrage in the state. And one of these acts, (that of July 19th,) enacted that no district commander, or member of the board of registration, or any of the officers or appointees acting under them, should be bound by any opinion of any civil officer of the United States. By the operation of these acts, Georgia was reduced to a mere military district, in which the will of the commanding general was supreme, with no right of appeal from his orders to any court, or to any civil officer of the state or of the general government.

The details of these acts have already been sufficiently stated in a previous chapter; and the study of them can afford no pleasure to any American citizen.

The registration took place substantially as Congress prescribed, and by General Pope's order, the election was held on the 29th, 30th and 31st of October, and on the 1st and 2nd of November, 1867, the polls being kept open for five days under the management of army officers, and with troops convenient *to every voting* place. By a general order from the

headquarters of the district, the convention was declared to have been carried, and the delegates of the Republican party were declared elected. The delegates were ordered to meet in convention, not at Milledgeville, the capital of the state, but at Atlanta, on the 9th day of December, and proceed to frame a constitution and civil government for the state.

When the convention met, Foster Blodgett, afterwards a fugitive from the state, was elected temporary chairman, and on taking the chair, among other things said: "To-day the Republic is free! This convention is a splendid exemplification of the fact. Gentlemen, I tender you my congratulations. The whole civilized world greet you to-day, assembled as the representatives of the people of the free state of Georgia!" And the permanent president, on assuming the chair, said that "it will gladden every patriotic heart to know that liberty still lives in our grand old Commonwealth."

These fine sentiments were uttered not far from General Pope's headquarters, and the first resolution adopted after the organization, informed him that, "in obedience to his orders this convention is now assembled and organized, and invites his presence in the convention at his pleasure."

And a few days afterwards he was met at the door of the hall by a committee and escorted in uniform and with a clanking sword, amid applause, to the right of the President. Speeches were made on this occasion, but the manliest was made by General Pope. Soon after the convention met, the delegates realized that no fund had been provided to pay for their patriotic services, and an ordiance was passed to levy and collect a tax for that purpose; but as the slow process of taxation could not relieve immediate wants, the ordinance further directed the treasurer of the state to advance to the convention out of the treasury $40,000. The treasurer refused to honor this requisition, in the absence of an executive warrant. General Pope having been removed by the president from the command of the district, his successor, General Meade, early in January 1868, required Governor *Jenkins to issue a* warrant for the sum demanded by the *convention. The* Governor refused to comply, on the ground *that the constitution of* the state, which he had sworn to sup

port, expressly provided that no money should be taken from the treasury, except by executive warrant upon appropriations made by law. The new commander thereupon issued an order deposing the Governor, State Treasurer and Controller General, and appointed army officers to execute their functions. The gubernatorial appointee of General Meade, on presenting himself to assume the government of the state, read in answer to a question, an extract from his instructions directing him in case of resistance, to employ such force as might be necessary. Governor Jenkins in his account of the affair said that, as far as was practicable in the brief interval allowed him, he placed the moveable values of the state and certainly the money then in the treasury beyond reach, but these military men took actual possession of the State Capitol and its grounds, of the executive mansion and its furniture and of the archives of the State, proceeded to collect taxes, seized upon the income of the Western and Atlantic Railroad, then in good order and successful operation, and secured all the revenues of the State subsequently flowing into the Treasury.

Governor Jenkins, as soon as action was taken under the reconstruction acts, had repaired to Washington and filed a bill in the Supreme Court in the name of the state, against General Pope and others, seeking to enjoin any proceedings under these acts, as infringements of the Constitution of the United States. Permission was given to file the bill, (and only a state in the Union could file such a bill in that court), but it was dismissed after argument, on the ground that it alleged neither interference nor the threat of interference with the property of the state, which allegation, the court held was necessary to make a case for their consideration. When the subsequent seizure of the great offices of the state and of all its accessible property occurred, Governor Jenkins, deeming himself still the rightful Governor of the State, again went before the Supreme Court alleging these facts, and permission was given to file the bill; but *the permission was* revoked the next day, and a new rule of *practice devised and* enforced, which compelled delays, and *finally the learned* counsel for the state, Mr. O'Connor, Mr

Black, Mr. Field and others, were told that there did not remain of the term, time enough to hear and determine a motion for injunction. Before the commencement of the next term, the Atlanta Convention had done its work. (See the report made by Governor Jenkins in 1872, House Journal, p. 405.)

On the 11th of March, the convention adopted an ordinance providing that should it be necessary for the convention after its adjournment to reassemble it should do so at the call of its president *pro tempore*, or in default of both, by the general commanding the Third Military District, and ordained that an election should be held beginning the 20th of April following, at such places as might be designated by the commanding general, for voting on the ratification of the new Constitution, and for the election of Governor, members of the General Assembly, Representatives in Congress and other officers, said election to be kept open from day to day at the discretion of the commanding general, and the qualifications of voters were to be the same as those prescribed by the act of Congress, known as the Sherman Bill, and General Meade was requested to give the necessary orders, and cause due returns to be made and certificates of election to issue. The military commander published general orders on the 14th and 15th of March, assuming entire charge of the election, providing that it should commence on the 20th of April and continue for four days, prescribing the minutest details and providing that sheriffs and other civil officers failing to perform with energy and good faith the duties required of them, and citizens charged with violation of the right of suffrage, should be tried and punished by the military authority, and directing that the returns of the election should be made to himself.

The Constitution so made and submitted to the people was framed by delegates elected almost entirely by those who had no right to vote according to the laws of the state, the white people having almost universally refused to participate in the *election. It proposed* the enfranchisement of the colored *people, and they* were to vote on the proposition, and many *of the white people* were not allowed this privilege. It was *curious plebiscit.*

The Constitution also ordained that no court in the state should have jurisdiction to try or determine any suit against any resident of the state, upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the first day of June, 1865, and it provided for each head of a family a homestead and exemption against his debts of the aggregate value of $3,000 in gold.

These transparent devices with others of a similar character, were artfully designed to attract the support of the debtor class, and after the election were annulled because in conflict with the Constitution of the United States. Those who were deceived and disappointed by the scheme, had no further reason in the years that followed, to act with the Republican party.

In the interval between the convention and the election, the white people in some sections of the state were assured by the advocates of the Constitution that after its ratification negroes would not be eligible to office. The argument was that negroes had no political rights, except such as were conferred by law, and that the Constitution was silent on the subject. This view undoubtedly beguiled some persons who for other reasons were inclined to vote for ratification.

Congress on the 12th of March, of this year, passed an act providing that a majority of the votes actually cast should determine the election, the previous acts having required a majority of the registered voters. There was no longer any motive for standing aloof, and Democrats as well as Republicans nominated candidates for the various offices. This policy of the Democrats possibly brought some of their voters to support the Constitution, who wished their candidates to take charge of the administration.

The election was held on the appointed days and General Meade declared that the Constitution was ratified, and that Rufus B. Bullock, the Republican candidate for governor, was elected over John B. Gordon.

On the 4th of July, the new General Assembly met under orders from Mr. Bullock and General Meade. The Governor-elect relying on a military edict, assumed the chair, and *proceeded to organize the* two bodies. A Secretary was desig-

nated by him to call the roll of the Senate, and Senators were requested to present themselves and take the oath of office. A Democratic Senator inquired of the Chairman whether objection to the qualification of any Senator could at this juncture be entertained. The Chairman decided in the negative, and the call of the roll proceeded. After the Senators had taken the oath, the Chairman ordered an election for president. This order having been executed, and the Republican candidate, Benjamin Conley, having received twenty-three votes, the Chairman declared him duly elected president of the Senate. The journal further recites that the election of a Secretary of the Senate was next "ordered." And after the President had made a speech, the Governor-elect withdrew. This ceremony was then repeated in the House of Representatives, *mutatis mutandis*. The Governor-elect put himself in the chair, caused to be called the roll of the members-elect prepared by General Meade and "ordered" the election of a speaker. During the call of the roll, Mr. Scott moved to adjourn. The Chair decided the motion out of order. Mr. Scott appealed to the House, and the Chairman declared that there could be no appeal except to the military. Mr. Scott appealed to the military, receiving no response, and the Secretary proceeded with the call. R. L. McWhorter, Republican, was by the Chairman declared elected, and to him the Governor yielded the chair.

In reply to a communication from the General Assembly, notifying him through a joint committee that the organization of the two houses had been perfected, the Governor-elect transmitted a letter from General Meade, in which the Commanding General informed his excellency that he had no instructions to give, further than to make known that in his judgment neither house was legally organized until it was purged of members ineligible under the reconstruction acts. Committees were then appointed in each House, charged with the duty of reporting upon the eligibility of members, and upon their reports, each House resolved that all its members were eligible.

General Meade in his report, states that the provisional *Governor in* communicating to him this action of the House, *nevertheless,* "expressed his opinion, founded on evidence

presented to him, that several members of both Houses were ineligible and called on me to exercise my power and require said members to vacate their seats. On reflecting upon this subject, I could not see how I was to take the individual judgment of the provisional governor in the face of a solemn act of a parliamentary body, especially as from the testimony presented, I did not in several cases agree with the judgment of the provisional governor. . . . My judgment was decidedly that I had fulfilled my duty in compelling the houses to take the action they had and that having thus acted, I had neither the authority nor was it politic or expedient, to over-rule their action and set up my judgment in opposition. . . . I allude thus *in extenso* to this subject because his excellency, the Governor of Georgia, in a public speech recently delivered at Albion, N. Y., is pleased to attribute the failure of Georgia to be properly reconstructed, to my action in failing to purge the Legislature of his political opponents, he having advised me when he urged such action, that his friends had been relieved of their disability by Congress." (For this report see Senate election cases, pp. 291-2.) The provisional governor seems to have been trying in his own way to recast the result of the late election, and to use the blunt soldier for that purpose, as he had already done on many occasions.

General Meade, on the 20th of July, advised and instructed the Governor that he had no further opposition to make to the two Houses proceeding with the business for which they were called together, and that he considered them legally organized. The Governor then also informed the General Assembly that they were required by the act of Congress, of June 25th, 1868, to ratify the fourteenth amendment of the Constitution of the United States. A resolution to that effect was at once proposed and adopted. The same communication from the Governor informed the General Assembly that they were required, "by solemn public act, to declare the assent of the state to that portion of the act of Congress which makes null and void" certain parts of the new constitution which carried the taint of repudiation and impaired the obligation of contracts. And this last requirement was fulfilled. This little *punctilio of Congress* is a surprise under the circumstances.

Mr. Bullock dropped his provisional title, and the state became entitled to representation in Congress, according to the act of June 25th. Joshua Hill and H. V. M. Miller were elected United States Senators. They were not admitted to their seats until February, 1871.

There had sat in the constitutional convention thirty-three negroes, and in the General Assembly now in session about the same number of colored men had seats. They had been, by their Republican associates of the white race, the carpet-baggers and other adventurers, seduced into a state of disdainful scorn of the old proprietors of power in Georgia. Soon after the two Houses had entered upon the regular business of the session, the question which had been discussed during the interval between the convention and the last election, as to legal right of the colored people to hold office, again became a topic of great interest, and finally a resolution was introduced in each body declaring them ineligible to seats. After a long discussion, on the third day of September, the House, by a vote of 83 to 23, passed the resolution, and 25 negroes ceased to be members. In the Senate, by a similar resolution, passed on the 12th day of September, two seats were vacated. Not many days after these events, the candidates who received the next highest votes were admitted to the seats. The Governor took occasion to send a message to the House, in which he inveighed against the decision of the General Assembly upon the qualifications of their own members, and his keynote was that after the surrender, "we were totally without political rights and privileges. Those which we have since acquired, are such as have from time to time been granted us by Congress." The view of the Supreme Court of the United States was different. That Court held that "the State (Texas) did not cease to be a state, nor her citizens to be citizens of the Union." (7 Wal. 701.)

The message was returned to the Governor with a resolution to the effect, that his excellency did not keep their consciences.

The question of the eligibility of the negro to office in *Georgia, came before* the Supreme Court of the state in 1869.

That court consisted of three judges, appointed by Bullock, and confirmed by the Senate. Two of them were Republicans, and one was a Democrat who had sat upon that bench when the court was first organized. The case was a *quo warranto* brought up from the county of Chatham, by a colored man against whom a judgment of ouster from a county office had been granted by the Superior Court. The lower court was reversed by the two Republican judges, the Democratic judge dissenting. But it is interesting to note that one of the Republican judges, who was the Chief Justice, held that the right of the negro to hold office, so far as it depended on the constitution and laws of the state, was subject to repeal by the General Assembly. (39 Geo. Report.)

The military administration of the executive and judicial departments of the state may require brief mention. The Governor's functions were devolved on an officer detailed from the army, and all the subordinate departments of the executive branch experienced the same fate. Two eminent judges of the Superior Court were displaced because they chose to obey the law of the state rather than military commands. And all the judges and all the county and municipal officers who were not removed held their places only by the permission or sufferance of the district commander. It is obvious that such an administration of public affairs could not have the hearty coöperation of the people. Crimes, no doubt, were committed in some instances against odious persons, and some secret murders went unpunished. The courts were virtually suspended, and army officers and soldiers not only had no relations of confidence with the community, but were unfit for civil duties. A case in point may be given as an illustration. During the night of the 30th of March, 1868, Geo. W. Ashburn, a white man, was assassinated in a low, negro brothel in the city of Columbus. His lodging was in a back room. He had been steward in a hotel, but, during the new era, had served as a member of the constitutional convention. On the last day of the convention he, as *one of the minority of* a committee, and against the recom*mendation of the majority*, had caused that body to pas*solutions urging* Congress to remove all political disabiliti

from the people of the state. It may be inferred, with propriety, that he was not specially offensive merely on account of his being a Republican. It was shown that he had personal enemies among his associates, who had threatened to take his life. But it was at once charged that the killing was a political murder. The municipal authorities of the city, nevertheless, offered a reward of five hundred dollars for the assassins, and General Meade offered two thousand dollars for the same purpose. The election on the ratification of the constitution, as well as of members of the General Assembly, was to occur in a few weeks; candidates were in the field, and the excitement ran high. The mayor and aldermen of the city were removed by General Meade, and his subalterns substituted. On the 6th of April, thirteen citizens were arrested by an officer of the army, and when asked for his authority, he pointed to his file of soldiers. Nearly all the persons arrested were men of high position, who, in the opinion of the community, would not have been capable of such an atrocity. One of them was a Democratic candidate for the General Assembly (now a member of Congress), another was a candidate for a county office, and a third was the chairman of the Democratic committee, conducting the canvass of his party. It was supposed that political motives led to their arrest. They were kept for a few days under guard by soldiers in the court-house—which should have been an asylum against arbitrary arrest and imprisonment—and were then allowed to give bond for their appearance before General Meade, whenever required. Three hundred and ninety-three of their neighbors eagerly became the bail of the prisoners. They were not permitted to know why they had been arrested, of what they were accused, or why they were released on bond. During the month of May eight arrests were made, and the prisoners were conveyed under guard of soldiers from Columbus, on the western boundary of the state, to Fort Pulaski, on the marshes below Savannah. They were confined *in dark cells* without ventilation, and but four feet by seven. *No bed or blankets* were furnished them. An old oyster can *was given each prisoner*, and in this both coffee and soup were served. [illegible] kindness from their friends or relations or coun-

sel, nor any communication from them, was allowed. They were forced to remain in these cells, prostrated by heat and tortured by insects. John Wells, one of these prisoners, a negro, was taken out of his cell and put into a chair in one of the casemates, with a cannon pointed at his head and a soldier holding the string, ready, apparently, to shoot the gun. A barber lathered his head and pretended to be preparing to shave it. After ten minutes of this treatment he was put back in his cell, with the understanding that if he did not tell something it would be worse for him. Another negro prisoner, John Stapler, was put before the gun, with no success. He was afterward put in the sweat-box and kept in great agony for thirty hours. When removed from the box, his legs were swollen. The story of the treatment of these negroes is taken from an affidavit made in Washington by Wm. H. Reed, one of the two detective officers employed by General Howard and General Meade to procure evidence for the government. During the month of June fourteen arrests were made at Columbus, and the prisoners were conveyed to McPherson barracks, near Atlanta. There they were placed in cells six feet wide by ten feet long. These cells were afterward divided by a partition, reducing their width to less than three feet. Neither bed nor bedding was furnished for several days. A prisoner lying on the floor (Dr. Kirksey) could, at the same time, touch the opposite walls with his elbows. The Fort Pulaski prisoners were transferred to these barracks, and after a while the new partitions were removed. Nine of the prisoners were discharged without any explanation, four were held as witnesses, and nine were detained for trial. On the 29th of June a military commission, consisting of seven officers of high rank, was convened at McPherson barracks, by order of General Meade, for the trial of the prisoners. The accusation, in the military form of a charge and specification, alleged, in technical language, that they had killed and murdered George A. Ashburn, "contrary to the laws of said state, the good order, peace and dignity thereof."

The trial proceeded for a month, able and distinguished *counsel having been* employed on both sides. It was watched *with intense interest* in all parts of the state. All the w

nesses for the Government who testified to any material facts, were shown, by their own evidence, to have been exposed to the influence of torture or fear, or the promise of immunity and freedom. W. A. Duke, against whom more positive testimony was adduced than against any other defendant, was able to demonstrate by incontestable proofs and a multitude of witnesses, that he was forty miles from Columbus, on the night of Ashburn's murder. General Meade then dissolved the commission on the pretext that civil government was about to be restored in Georgia, and the prisoners were abruptly discharged.

This military prosecution of honorable citizens, so full of exasperating details, and conducted with such ostentatious defiance of all rights of freemen, was not calculated to attract to the government the support of law-abiding people.

At the presidential election of 1868, the people of Georgia gave a majority to the Democratic electors, of 45,000, and the supremacy of that party in the state has been maintained at every subsequent election.

When the General Assembly met in January, 1869, the Governor in his message, stated that he had advised Congress that the reconstruction acts had not been fully executed in the state, that the members should have been required to take the oath (commonly known as the iron-clad oath), prescribed for officers of the United States, that the members had decided their own qualifications and had made wrong decisions, and that the result was the defeat of the purposes of Congress, "these purposes having been the establishment of a loyal and Republican State Government," etc. The Governor in this message enforcing these views upon the General Assembly, quotes with approval the sentiment that "it is certainly the duty of district commanders to take what the framers of the reconstruction laws wanted, to express as much as what they do express, and to execute the law according to that interpretation." And the Governor contrary to the opinion of General Grant, recommended that the persons returned as elected in April should be reassembled, that the test oath should be enforced except those who had been relieved of their disabilities, (who according to General Meade were his friends); that

this would restore the colored members; that the body thus organized should decide upon the eligibility of the excluded members, and after the work of reconstruction should be completed, the test oath would not apply. This scheme was perhaps what his excellency desired rather than what he expected at this time. It was not adopted. General Grant, the new President, was inaugurated in March of this year, and on the first Monday in December, the new Congress met. On the 22d of December the President approved an "act to promote the reconstruction of the State of Georgia," which was framed according to the plan outlined and recommended by the Governor.

It did not prescribe the iron-clad oath, but it provided a test oath stringent enough to exclude some persons whom the people had elected. By this act the Governor was authorized and directed forthwith by proclamation, to summon all persons elected to the General Assembly of the state as appeared by the proclamation of General Meade. The Governor on the same day (December 22d), issued a proclamation summoning all persons elected, &c., "who are qualified," to appear at Atlanta on the 10th of January, 1870. A person designated as clerk *pro tem.* was ordered to organize the Senate on that day, and the oaths were administered by a commissioner named by the Governor. Such Senators as could take the new test oaths were sworn as directed on the day appointed, and the others were excluded.

Mr. Conley was again elected president, and the two negro Senators were again in their seats. The president made another inaugural speech, in which he said: "The Government has determined that in this Republic, which is not, never was and never can be a democracy; that in this Republic, Republicans shall rule."

He seems to have adopted the sentiment of the Governor, expressed on a former occasion.

In the House the organization proceeded under the auspices of A. L. Harris, who was detailed by the Governor for that purpose. Harris was a man from New England, of enormous girth, who recognized only such motions as he desired, *and directed the* proceedings according to his own taste. His

will was the only parliamentary law. A member insisted that the House had the right to choose its presiding officer even for the purpose of organization. Harris suppressed him. The incident did not appear in the Journal, because he also took control of the minutes. (Senate Election Cases, p. 298.) He had the roll made by General Meade, called, and as each member appeared, Harris directed him to be sworn alone. When he grew weary, or for other reason wished to terminate the session for the day, he announced that the House would take a recess until a time named by him.

The new reconstruction act provided that upon application to the Government, the President should employ such military and naval forces as might be necessary to enforce and execute the acts, and General Terry was now the commander of the district. This officer, perhaps on the request of the Governor, convened a board of military officers, instructed to determine the qualifications of certain members of both Houses, and the finding of this board as to the eligibility or ineligibility of any member was enforced by the orders of General Terry, and reinforced by Harris.

When the military officers had judged and determined the qualifications of Senators and Representatives elected by citizens, and the obnoxious members had been excluded from their seats, Harris, on the 26th of January, announced that the House would proceed to the election of a Speaker, and the election of Mr. McWhorter again took place. On the next day, the Speaker directed to be read to the House a communication from the Governor, presenting the names of the candidates who had received the next highest vote to that of each of the members excluded by the military orders for ineligibility. General Terry also supported this view, by a letter to the Governor, on the day following that of the communication of his excellency to the Speaker. At first the House, no doubt remembering that the Governor had regarded it as a reproach to seat minority candidates on a former occasion, refused to accede to Bullock's recommendation · but when General Terry threw his sword into the scale, the *House* obsequiously reversed its action, and twelve friends of *the Governor, in this* way were admitted.

In March, 1870, the Judiciary Committee of the Senate of the United States made a report reviewing this organization of the General Assembly of the state, in which report it is held that such organization was not warranted by law in the following respects:

"*First:* In the control and direction of its proceedings by Harris.

"*Second:* In the exclusion from taking the oaths and from seats of three members who offered to swear in.

"*Third:* In the seating of persons not having a majority of the votes of the electors."

And on January 23rd, 1871, the Judiciary Committee of the United States Senate, in reporting upon the credentials of Joshua Hill, H. V. M. Miller, Henry P. Farrow and Richard H. Whitely, (the latter two having been elected by the General Assembly after the last reconstruction in 1870), affirmed the former report, and decided that Georgia was a state in the Union and entitled to representation in July, 1868, and that Hill and Miller were entitled to their seats, and they were soon after admitted as heretofore stated.

It thus appears that the Senate of the United States in December, 1869, concurred in an act entitled "an act to promote the reconstruction of the state of Georgia," and afterwards held that she was a state in the Union in 1868, and in that year lawfully elected Senators to the Congress of the United States.

The last act imposed upon the Legislature of the state requirement that it should ratify the fifteenth constitutiona amendment, and it was done to order.

From this time, the Governor and the General Assemb were on excellent terms, and the current of legislation encou tered no obstruction. His excellency had triumphed. The st was delivered into his hands. The strangers called carp baggers, the southern Republicans, called by a name s more odious, and the negro members, formed the majorit the Legislature, and between them and the executive t were the kindest relations, because he had given them pc and a golden opportunity. The tax-payers almost to a *had voted against the* persons who composed this maj

To these tax-payers, they were objects of very general execration. If they had not been upheld by military power, they might have been carted about with placards on their backs, as were the men whom George the 3d appointed to the Legislature of Massachusetts. The allowance was nine dollars a day, to say nothing of mileage, free passes and other things. The session with occasional short intermissions, continued from January 10th, to the 25th of October. The expenditures made on account of the pay and mileage of members and officers amounted during the term of this Legislature to $979,-055—a sum four or five times as much as was ever expended on the same account by any former Legislature. There were 104 clerks, or nearly one clerk to every two members.

The Constitution having conferred on the General Assembly the power to authorize the endorsement by the state of the bonds of private corporations on certain terms, there were passed at this session thirty-two acts which directed state endorsements to be placed on the bonds of as many different railroads. These endorsements so authorized with the contingent liability created by seven other acts previously passed, would have amounted to $40,000,000. All the railroads built under these acts collapsed with a single exception, and the latter would have been built without the aid of the state. All the bonds that were so endorsed, with the same exception, were endorsed in violation of the terms prescribed by the Constitution, and of the acts providing for the endorsement. In order to hold together the combination of members who supported these measures, a resolution was passed requiring "that each and every bill in which state aid is granted, be retained by the President of the Senate and Speaker of the House respectively until each and every such bill is acted upon, so that they may all go to the Governor at once." This arrangement pooled all their bills and consolidated all their supporting influences. It was a conspiracy which enabled every member to command the vote of every other member who had such a bill. It was supposed to have been *an invention of the lobby.*

During this year, acts were passed authorizing the Governor to *issue $2,000,000 of* seven per cent. currency bonds upon

which to obtain temporary loans for immediate use, also $3,000,000 of seven per cent. gold bonds for the purpose of redeeming bonds of the state, and "for such other purposes as the General Assembly might direct." These issues were made, it is to be remembered, although the ordinary revenues of the state were ample for all legitimate expenditures. Under another act passed this year, the Governor delivered to a railroad company bonds of the state to the amount of $1,800,000, the state having already under another act endorsed the bonds of the same company to the amount of $3,300,000, and both acts were in conflict with the Constitution.

At this session, on the recommendation of the Governor, an act passed releasing to certain claimants, on a worthless pretext, which could deceive no lawyer, property in the city of Atlanta worth a quarter of a million of dollars. The beneficiaries of this transaction were known as the "Mitchell Orphans."

Among the new men of that epoch was H. I. Kimball, who having failed elsewhere to find scope and appreciation for his great gifts, brought them to Georgia in quest of the opportunities which the process of destroying a state and then rebuilding it afforded. His was the genius which undertook the construction of the railroad which has just been mentioned as the donee of so much favor from the General Assembly. Besides he had other roads in process of construction upon the credit of the state during his primacy, and in addition a grand opera house, and a great hotel, in the city of Atlanta. His recourse for the millions required for these enterprises was the credit of the state. The Legislature gave him charters, and bonds, and endorsed the bonds of his corporations at his pleasure. The state bought his opera house at a good round price, for a capitol. He was paid temporarily for this property in the currency bonds to relieve his urgent wants, and when the gold bonds were engraved and ready for circulation, his friend, the governor, gave him of these two hundred and fifty thousand dollars, with the understanding that currency bonds to that amount should be returned. The latter bonds he neglected to restore. He became the financial agent of the state by Bullock's appointment, and hawked the bonds

state about in New York with remarkable freedom. In that capacity he went to that city, to take up currency bonds which had been hypothecated by Bullock, and to substitute the gold bonds. His letter of instruction directed him to cancel and return to the treasury the currency bonds. With one bank he made the substitution as directed, but instead of cancelling and returning to the treasury the currency bonds received of the bank, he applied one hundred and seventy thousand dollars of them to his own private use as collaterals for loans. He deposited gold bonds to a large amount with other bankers who had currency bonds, but did not require the surrender of the latter before he gave up the gold bonds, and so two sets of bonds were held for the same liability. Some of these bankers were his own financial associates.

He had received the state's endorsement of two hundred and seventy-five thousand dollars of bonds of a railroad company (other than that hitherto mentioned), and for some reason, having had an act passed changing the name of the company, he received the endorsement of the state on the bonds of the road under the new name amounting to three hundred thousand dollars, upon the promise that he would use them to extinguish the first issue. The promise was not fulfilled, and the new bonds of the road went upon the market as additional obligations of the road and of the state.

When Bullock became Governor, the state owned a railroad running from Atlanta to Chattanooga, which connected all the railroad systems of the state with the West. It was wrecked by General Sherman during the latter part of the war, but it had under the administration of Governor Jenkins, and at great cost, been put in excellent condition. It easily earned a net revenue for the state of three or four hundred thousand dollars a year. It paid into the treasury twenty-five thousand dollars per month during 1869, under an appointee of Governor Bullock (Col. Hurlbut) with all the embarrassments which that appointment involved. But Col. Hurlbut was not satisfactory to the Governor, and in defiance of warnings as to the character of Foster Blodget, the latter was appointed superintendent. The new superintendent of the road entered upon his duties on the first day of January

870. For the year 1869, Hurlbut expended in operating the oad, $985,633.80. During the year 1870, Blodget's expendi- ures aggregated $2,043,293.87. He left the road in bad ondition, and a debt of over half a million which the state ad to pay out of the treasury. Not less than a million of ollars was lost by the change of superintendents.

Under a provision of the Constitution, a poll-tax of ne dollar was levied for educational purposes. The fund reated by this tax, amounted in 1870, to $268,000. In 1870 t was used to compensate members of the General Assembly, nd such teachers as were employed in the public schools of hat year went without compensation. The children attend- ng schools during the year 1870 were 67,142 white and 10,351 olored, aggregating 77,493. For the sake of comparison, it ay be here stated that there were actually enrolled in the ublic schools of the state in 1888, of white children 200,768, nd colored children 120,390, aggregating 321,896.

In 1868, when Governor Bullock was installed, the debt of he state was $5,827,000. At the end of his administration he treasurer reported the debt to be $12, 450,000, and en- lorsed bonds in addition $5,733,000, aggregating $18,183,000, nd the bonds of the state were no longer marketable, except t very ruinous rates. Now the bonds of the state bearing our and a half per cent. are worth in the market a premium f twenty per cent.

Since 1870, the state road has paid into the treasury twenty- ive thousand dollars every month, or six million in twenty ears.

The Governor during his term of three years, pardoned hree hundred and forty-six offenders against the law. Some f these offenders received pardons before trial. He granted even pardons in advance of trial to one man who pleaded nen to seven separate indictments. These acts of the execu- ve did not tend to inspire confidence in the law, nor pro- ote the administration of justice in the Courts.

The taxable property of the state in 1860 amounted to *672,322.777, in 1870* to $226,329,769, and in 1889 to $345,- *0,000, exclusive of* railroad property. Prosperity, such as *a rapid and steady* increase of wealth implies, is fair evi

dence that good government has followed the expiration Governor Bullock's term. And the commerce of the st freed from the apprehension of misgovernment, it is co dently believed, is twice as great as before the war.

On the 3rd of October, 1870, Bullock approved an act titled "an act to provide for an election and to alter and ame the laws in relation to holding the elections." It was dra with great care. It provided that an election for members the General Assembly, members of Congress and cou officers should be held on the 20th, 21st, and 22nd day December, thereafter. The continuance of the election three days, without any registration of voters, gave gr facility to repeating. One colored man is known to h voted thirteen times by the mere device of changing his and his name each time.

The law further provided that the election should be h only at the Court House of each county, or in an incorp ated city or town by five managers, three of whom were to nominated by the Governor, two by the ordinary of the coun and all of them were to be confirmed by the Senate. those counties in which the ordinaries were of the Governo party (and such was the case in nearly half of the counti all the managers were selected by the same party influen The act furthermore provided that the managers should h no power to refuse ballots of male persons of "apparent f age," resident in the county, who had not previously vot and it prohibited all challenges. It was stuffed with pa and penalties.

The political campaign that ensued was memorable. was not a race between two parties, either of which wo have administered public affairs with honesty and justice all departments. On the part of the Democrats, it was struggle for good government. It was a situation in which good citizens banded themselves together against profliga and corruption and a disgraceful administration. On the oth hand, the negroes were told by their leaders that their def involved the loss of their political privileges, and even of th *personal* freedom. It was a contest for supremacy betwe *those who had always* been masters, and those who had b

their slaves. It was a trial in which if one side succeeded there would be an honest administration for all, and if the other succeeded, there would be ruin for all. The instinct of caste also intensified the efforts of both parties.

In Georgia the issue of such a struggle could not be doubtful. The victory was overwhelming. Not a disorder occurred, and Bullock's own managers counted the votes. Such rejoicing was never known before in Georgia. The Christmas-tide had brought a new redemption.

Before the deputies of an indignant people could meet and confront him, Bullock had resigned his office and fled the state.

And it may be truthfully said that reconstruction accomplished not one useful result, and left behind it, not one pleasant recollection.

H. G. TURNER.

NOTE.—The journals of the two houses of the General Assembly of the state, the reports of the Comptroller General and the Treasurer of the state, the messages of Governor Bullock and of acting Governor Conley, of the years 1868, 1869, 1870, 1871 and 1872, and the reports and testimony submitted to the General Assembly in 1872 by the committee appointed to investigate the bonds of the state (Thomas J. Simmons, chairman,) and the committee appointed to investigate the administration and management of the Western and Atlantic Railroad (Milton A. Candler, chairman,) are cited as authorities.

CHAPTER VI.

RECONSTRUCTION IN FLORIDA.

THIS fragmentary history of the reconstruction period in Florida opens about the time of the adjournment of the Constitutional convention of 1868.

The convention had left two factions in the Republican party, named after prominent leaders the Richards or Billings faction and the Osborn ring. The result of the bitter contest between them for the supremacy, during the days of the convention, was favorable to the followers and supporters of Osborn.

The old party leaders of the ante-bellum days had been disfranchised and silenced and there was no political organization in a condition to resist the Republican plan of controlling this and other Southern states by the negro vote, directed and managed by their party friends who had drifted southward with the Union army or had afterwards followed in its wake.

The Osborn faction represented the more conservative elements of the Republican party in Florida. Its leadership was among army officers, those holding Federal positions, and agents of the Freedmen's Bureau. Their opponents charged that they had used the influence and patronage of these positions to advance their personal interests and likened them to "hungry wolves around a carcass," in their efforts to secure political promotion.

Harrison Reed was their candidate for Governor, William H. Gleason for Lieutenant Governor, and Charles M. Hamilton for Representative in the Fortieth Congress.

Liberty Billings was placed at the head of the ticket *nominated by* the faction named after him.

The Democrats nominated as their candidate for Governor,

Colonel George W. Scott, who had been famous as a bold cavalry leader during the latter part of the war, and was at the time of the election, at the head of a large mercantile business in Tallahassee.

All the machinery of the election was in the hands of the Osborn faction. It was held under the ordinance framed by their convention. Horatio Jenkins, Jr., the president of the convention, was at the head of the Board which canvassed and announced the result. The inspectors continued the election, under the law, for three days and had the custody of the ballot boxes each night. Superior numbers did not necessarily decide the result. Ballot boxes were constructed with false bottoms for use in the large negro counties, where the Billings faction seemed to be preponderant, and though the aperture through which the votes were passed was carefully sealed each evening, and the key was ostentatiously entrusted to one who did not have the control of the box, an ingenious slide enabled the custodian, in the seclusion of his home, during the quiet of the night, to mould the majority at will.

A sample of this contrivance was sent on to New York after the election and placed where the people might see one of the instruments through which the Congressional reconstruction was accomplished.

The result of the three days' election, as announced by the Jenkins canvassing board, was the adoption of the Osborn constitution and the election of Reed, Gleason and Hamilton, notwithstanding the general belief, among the supporters of Billings and the Democrats, that this was not the true result. But they could only submit to the power of the general government, and Reed entered upon his administration on the first day of July, 1868. The Legislature which was assembled rewarded Osborn by electing him to the United States Senate, and Adonijah S. Welch* became his immediate colleague.

In his first message to the Legislature, Governor Reed heartily endorsed the plan of reconstruction of which he was the exponent and the Constitution which had been framed under it. He placed himself in decided antagonism to the old population who did not believe that the time had arrived

* *In some of the* records this name is spelled Welsh.

for universal suffrage. He semed to be fully aware o diffiulties which surrounded him, but entered upon his in a hopeful spirit, and he really seems, at the outset, to desired to put his administration upon a sound and h financial basis. With this end in view, he appointed a comptroller, Colonel Robert. H. Gamble, a man of exc financial ability, inflexible integrity, thoroughly identified the state and her interests, and universally respected. He appointed James D. Westcott, Jr., Attorney-General, and a later an Associate Justice of the Supreme Court. His f had been a United States senator, and though the you Westcott had not then had an opportunity to make his n his future was full of promise, and all who had been bro into business contact with him had entire confidence ir ability and integrity, and in both respects his career just this confidence. It was generally understood that these tlemen severed no political ties and entered into no political associations in accepting these appointments.

The system of state government in 1860 was modest inexpensive, adapted to the resources of a thinly-popu state, with a tax valuation of $67,529,231, of w $29,206,632 was the valuation placed on its slave prop The system included the following executive and jud officers with their salaries as stated:

Officers.	*Salaries.*
Governor,	$ 2,500
Secretary of State,	800
Comptroller,	1,100
Treasurer,	800
Attorney-General,	500
Adjutant-General,	500
Three Justices of the Supreme Court, at $2500 each,	7,500
Five Circuit Judges, at $2500 each,	12,500
Total,	$26,200

Under the administration of Governor Walker dir after the war, the salaries of the Governor and judges increased to $3000 each, which increased the total am *of these expenditures* to $30,700.

In 1869 the total tax valuation was reduced to $29,700,-022, and the people were emerging from a war which had left them impoverished, yet the scale of expenditures for like salaries under the reconstructed Government was as follows:

Officers.	*Salaries.*
Governor,	$ 5,000
Lieutenant-Governor,	2,500
Eight Cabinet officers, at $3000,	24,000
Chief Justice,	4,500
Two Associate Justices, at $4000,	8,000
Seven Circuit Judges, at $3500,	24,500
Total,	$68,500

Governor Reed, in his first message, asked whether the Government, notwithstanding this largely increased salary list, could be maintained without imposing any additional taxation upon the people and answered his own inquiry by attempting to demonstrate, with the aid of an imposing array of figures, that it could.*

The following table will compare the financial management of his administration with that of some of his predecessors, and will prove how sadly his expectations went astray, and how strong a tide of extravagance or corruption carried the expenditures, far beyond his figures and his promises of good government.

RECEIPTS AND EXPENDITURES OF THE STATE FOR CERTAIN YEARS NAMED.

Years.	*Receipts.*	*Expenditures.*
1860	$115,894.89	$117,808.85
1867	161,806.21	187,667.63
1868	223,433.67	234,233.80
1869	347,097.12	374,973.23
1870	192,488.60	295,078.50
1871	275,005.59	410,491.19
1872	257,233.54	304,214.35

Thus in the four full years of Reed's administration the annual expenditures averaged $346,189.32, as compared with Walker's only full year of $187,667.63, making an average

Assembly Journal, 1st Session, 1868, pp. 55–58.

annual increase of $158,521.69. And notwithstanding t increased receipts, there was a deficiency of $312,932, created in these four years.

The first Legislature under the new Constitution, n shortly before the Governor was inaugurated, and was F publican in both branches. It contained some of the é ments of dissension that had been active ever since the stru gle for office commenced in the party ranks, but there was outbreak while the session continued. These intestine qua rels were upon constantly shifting lines, and some of the m influential who had supported Reed against Billings w soon arrayed against him. This was largely owing to t immense patronage given to the Governor by the new Co stitution. Under it he had the authority to appoint eve state and county officer except the Lieutenant-Governor a the constables, and the Supreme Court decided that he cou even appoint a Lieutenant-Governor in case of a vacan As there were many aspirants for every place, the disappoi ments were numerous and afforded ample reason for an ev increasing list of malcontents, who were ready to array the selves with the opposition.

The following are some of the most important acts of k islation of this session, which require mention here.

An election law manifestly framed in the interest of t party in power. It required no oath to check false or illeg registration. It promoted repeating. Though the new Co stitution required a registration of the voters and the stat provided for one, it enabled any unregistered applicant vote on the day of election if he was willing to swear that had been registered.

An issue of State bonds to the amount of $300,000, dra ing interest at the rate of six per cent. per annum, ostensib to find the outstanding debt of the state.

A law to control the official advertising of the state favor of newspapers favorable to the administration.

An act authorizing the Governor to employ as many sp and detectives as he saw fit. By its terms a secret fund w placed at his disposal, for which he was not required to gi *any official account.*

The power of choosing the electors to vote for President and Vice-President was taken from the people and given to the Legislature.

Various railroad, canal, steamboat, navigation and "improvement" companies, were organized and liberal terms made with them in the shape of lands actually granted or authorized to be granted by the Trustees of the Internal Improvement Fund, in whom the title was vested.

The ill-will against Reed began to assume definite shape when the Legislature met to choose the electors in November. Brief as was their sitting they commenced impeachment proceedings against him, but he was saved for the time by the Supreme Court which ruled that there being no quorum of the Senate present at the time the effort at impeachment was abortive.

Lieutenant-Governor Gleason was at the head of the opposition, and when thus attacked Reed was not inactive. His Attorney General, on the 19th of December, filed an information in the nature of a *quo warranto* against Gleason claiming that he had no right to the office of Lieutenant-Governor, because at the time of his election he had not been a citizen of Florida for three years, as required by the new state constitution.

Of course, this disqualification was well known to Reed when they were nominated on the same ticket. They were both from Wisconsin, though the Governor first reached Florida. But the law was plain, and after a long legal fight, terminating in the United States Supreme Court, Gleason was ousted.

Reed next attacked his Secretary of State, George J. Alden, who had arrayed himself openly with Gleason and other enemies of the Governor in the attempted impeachment. Alden was removed, and in selecting his successor Reed vastly increased his strength with the freedmen, whom he had wholly ignored, up to this time, in his state appointments. Jonathan C. Gibbs, the new Secretary of State, was of African descent, a graduate of Dartmouth College, in New Hampshire, and though he had but recently come to the state, he *had made a favorable* impression upon those of his people

with whom he had come in contact. They afterwards showed their appreciation of this recognition by giving Reed a larger share of their support. This appointment was distasteful to the white Republicans, but they did not dare to oppose it when it was afterwards sent to the Senate for confirmation.

The Legislature held its second regular session in June, 1869; Marcellus L. Stearns became the Speaker of the lower House.

The record shows a bad state of feeling in the Republican ranks.

The impeachment proceedings were revived and took definite shape. A committee was appointed to investigate the charges against the Governor, with power to take testimony. The majority of the committee, made up of three Republicans and two Democrats, reported that the evidence before them sustained two of the charges.

One was that Reed had entertained a proposition from a certain person in Leon county, to appoint a friend as Clerk of the Court there, the person asking for the appointment to pay Reed five hundred dollars for the use of the state. The five hundred dollars were paid to Reed, the desired appointment was made, but the money failed to reach the state treasury.

The second was, that an amount of about seven thousand dollars, arising from the sale of certain Virginia and other state bonds, made under legislative authority by the Governor, was paid into his hands in lawful money, but instead thereof Reed paid into the state treasury the same nominal amount in state scrip which was largely depreciated.

It was charged that Gleason had failed to account for the funds which had reached his hands as Financial Agent of the State under the appointment of the Constitutional Convention.

It was proposed to investigate the election of Abijah Gilbert, who had been chosen to succed Welch (or Welsh) in the United States Senate, and to proceed to another election, upon the ground that Gilbert's election had been effected by the free use of money.

Charges of wholesale and retail bribery against different

factions and individuals were bandied about. Voters were said to have a regular market value, and the recognized leaders of the majority were ready, according to these accusations, to bargain for the passage or defeat of any measure that the money kings of the lobby were sufficiently interested in to support or oppose by these corrupt agencies. But though many of the outside world were ready to believe all that these statesmen charged against one another, neither the accusers nor the accused could afford to continue the Kilkenny cat fight to the extinction of their adversaries. A settlement and a compromise was reached, and the assemblage became a happy family once more.

The effort to elect a new United States Senator to contest Gilbert's seat was, after some ineffectual balloting, indefinitely postponed, but it was renewed and consummated at another session. Gleason made a report of his financial doings which was accepted as correct.

A bill was passed, giving Billings and Richards the per diem and mileage, which the Constitutional Convention had denied them. The testimony against Reed was kept from the record and deposited in the office of the Secretary of State. And a negro member of the Assembly who had joined in the majority report against him offered a resolution that it contained nothing justifying an impeachment. The adoption of this resolution terminated, for the time, the proceedings against the Governor.

Just before the final adjournment the Governor was authorized to negotiate a second issue of six per cent. bonds to the amount of two hundred thousand dollars.

The history of this period should contain a full account of the complications arising from the sale of some of the railroads belonging to the Internal Improvement System of the State and the management of the trust fund which was in the hands of the Governor and some of the members of his cabinet, and had been granted to the state by the liberality of the general government. The subject is full of interest, and the writer may enter more fully upon it at some other time. In this connection he will confine himself to a few references to the *matter, here and* there, to illustrate the general misman-

agement, recklessness and dishonesty which characterized this reconstruction period.

In March, 1869, the Pensacola and Georgia railroad was sold by the trustees, to the great injury of the people living in the counties along its line. A large portion of the stock was owned by these counties and it was controlled by the county commissioners who were Reed's appointees and who made no effort to protect it. The sale was announced to be for cash but the purchasers were allowed to make payment in unmatured bonds, greatly depreciated, worth thirty-five or forty cents on the dollar, which were received at their face value. The deed was delivered while there was an unpaid balance of the purchase money of four hundred and twelve thousand four hundred dollars still due, and it was only collected after a tedious and expensive litigation, ending in the Court of last resort at Washington, and carried to a successful termination in better days, after the sceptre of power had been taken from the Republican reconstructionists. The purchasers required additional legislation to perfect their schemes, and some of them were mixed up with many of the scandals of the day. The Supreme Court of the United States, which had occasion. to consider all the facts of these transactions, says with reference to two of the most conspicuous actors in this business: "Littlefield and Swepson have both shown themselves capable of the most shameful frauds." *

At the legislative sessions of June 1869 and January 1870 an arrangement was made by which the new corporation, into which the purchased roads was merged, was to obtain state aid to the amount of four million dollars in state bonds. Bribery and corruption were at these sessions with open hand. Littlefield handled plenty of money, and the statesmen of all shades of color were unwilling to bestow upon him as a gratuity the valuable privileges which he was able and willing to pay for.

So much was said about the matter that the grand jury of Leon County, where the Legislature met, felt bound to take

* The following cases will throw light upon this railroad litigation: *Anderson vs. State* of Florida, 91 U. S. 667; Railroad Companies vs. *Schutte, 103 U. S. 118;* Littlefield vs. Trustees of I. I. Fund, 117 U.S. 419.

notice of it at the Fall term of the Court in 1870. The record of the Circuit Court shows that a cabinet officer, two state Senators and General Littlefield himself were indicted for bribery connected directly and indirectly with this railroad legislation. Littlefield was charged with paying Reed twelve thousand dollars for approving his bill. Senator Charles H. Pearce, of Tallahassee, a negro preacher, generally known as Bishop Pearce, was indicted for offering bribes to other brothers in black to induce them to vote against the impeachment of Reed for his alleged bribery as well as other crimes. Pearce was tried before a jury upon one of these indictments and found guilty, and on appeal to the Supreme Court, the judgment against him was sustained. But he was afterwards pardoned and was one of the counted in electors who voted for Hayes and Wheeler in 1876.

The zealous State's Attorney who directed the investigation which resulted in these indictments soon after lost his official head, and Pearce was the only one of the accused persons who was ever brought to trial.

The regular session of 1870 found the treasury on the verge of bankruptcy and the administration torn by a continuation of its internal dissensions and weakened by the alienation of the conservative influences which had met Reed's advances and promises of good government in a friendly spirit.

The taxes were payable in Comptroller's warrants and Treasurer's certificates, known as state scrip. An economical management of the finances would have kept this scrip from serious depreciation. But the constantly increasing expenditures, so far beyond Reed's own figures, carried its price steadily downward. By this time it sold at fifty cents on the dollar, and often for less when there was no immediate demand for it for the payment of taxes. The evil was increased by the officials who handled the people's money, from the Governor downward. Many of these financial officers were among the most active in trading in it, and thus depreciating the state's credit to their personal gain. The money that reached the hands of these official speculators was transformed into the depreciated scrip by the time it reached *the treasury.*

The following statement, based upon the Comptroller's Report, will give some idea of the ratio of increase of the state expenditures:—

Expenses.	*1860.*	*1869.*
Legislature, ...	$11,057.00	$42,959.90
Officers of Legislature, . . .	1,580.00	5,655.80
Printing of do. . . .	4,500.00	17,205.49
Stationery of do. . . .	455.58	1,799.00
Total, ...	$17,592.58	$67,620.19*

Thus it appears that the printing alone, under the new order of things, cost about as much as the entire legislative expenses had formerly amounted to, and the increase in the printing and stationery accounts occurred at a time when ignorance and illiteracy barred no one from membership in Senate or Assembly.

The Governor had hoped to provide for the increasing expenses by the sale of the bonds which the Legislature had authorized, but the wasteful extravagance of the Government soon became known in business circles throughout the country, and he was successful in getting but small relief from this source, and only upon most unfavorable terms. The Littlefield and Swepson issue of four millions, which was ready for the market at fifty cents on the dollar, if no better terms could be obtained, seriously embarrassed the negotiations of the other state bonds.

The Comptroller stated in his annual report that there was no money in the treasury, and that the resources of the state "were much weakened by incompetent and irresponsible assessors and collectors of revenue." †

The Treasurer stated that the delinquent list was ruinously large, and that the blame rested mainly upon the revenue officers of the state, whom he plainly intimated were deficient in good business qualifications and integrity. In finding a cause for this, he says, "Under the disqualifying clause of *the Fourteenth Amendment*, it has been, and is, impossible,

**Assembly Journal*, third session, 1870, Appendix, p. 8.
† Assembly Journal, 1870, Appendix, p. 5. Same, p. 10.

in many counties of the state, to find men competent for these places." It will be borne in mind that the amendment referred to excluded most of the *ante bellum* population from holding office, and left the responsibility of government with the freedmen and their new Republican allies.

Reed was still kept under the shadow of impeachment. The majority of the committee appointed to investigate the charges of dishonesty, corruption, malfeasance and incompetency preferred against him, reported that they were sustained by the evidence, but for the time he was spared, on a close vote by the numerical strength of his faithful black allies.

About this time the Governor and other trustees of the Internal Improvement Fund incurred the discipline of the United States Circuit Court.

They undertook to aid some of the wild cat corporations which had been chartered by the Legislature by giving them large quantities of land or selling it at nominal prices. A large creditor of the fund, Francis Vose of Massachusetts, who held bonds issued by the trustees in aid of the Florida Railroad Company, filed a bill complaining of the mal-administration of the trust, alleging the waste and destruction of the fund by selling at nominal prices the lands by the hundred thousand and even million acres, and the diversion of the funds coming to their hands from its lawful and legitimate use. It was prayed that the fraudulent conveyances be set aside, that an injunction be granted to restrain the trustees from further waste, and that the fund be taken from them and placed in the hands of a receiver.

On the sixth day of December, 1870, Justice Woods granted the injunction. It recites the following acts: "You the said trustees are misappropriating the funds belonging to the said trust, are improperly and fraudulently misappropriating the same, are selling and transferring said land in amounts and manners and for considerations that are wholly inconsistent with and violative of said act; that you are donating and disposing of the same for merely nominal prices and for scrip and *state warrants not* recognized as the lawful currency of *the United States.*" It goes on to recite an engagement for *the sale of one million* one hundred thousand acres of

trust lands, "at the nominal price of ten cents per acre." It goes on further to charge, "And that thus you the said trustees are wasting and destroying the land and the fund so vested in you by the said act of 1855 and by the foregoing and by other lawless and fraudulent acts are diverting the moneys which have come and are coming into your hands by virtue of said trust from the payment of coupons in the order in which they fell due," etc. A penalty of $10,000 for contempt was fixed in case the injunction against the continuance of these wrongful acts was disobeyed.

Notwithstanding the injunction, all of the trustees, except Col. Gamble, on the tenth day of February, 1871, "for and in the consideration of the sum of one dollar to them in hand paid," conveyed to one of the companies, with which they had been contracting, 1,360,600 acres of the trust land. Thereupon the complainant, Francis Vose, brought the matter to the attention of the Court by petition, and Justice Woods, on the seventeenth day of April, 1871, made an order requiring the disobedient trustees to show cause why they should not be held in contempt.

The conveyances were declared void, a re conveyance of the lands to the trustees was ordered, and in June, 1872, the vast Internal Improvement Fund of the state was taken from the trustees and placed in the hands of a receiver, who was continued in charge until after the Republican party went out of power. Under a different management of the affairs of the state these unfortunate complications were unravelled and the litigation was terminated.

By the same order an attachment was granted against the trustees who had signed the objectionable deeds and at the December term, to which it was returnable, the people of Florida had the mortification of seeing their Governor and several of the members of his Cabinet arraigned as criminals at the bar of the Court, and though no actual punishment was inflicted upon them, no order was ever made relieving them of the charge of contempt.

After these conveyances had been declared void and the re*conveyance of the lands* had been enforced by the Court, some *of the parties applied* to have restored to them coupons of the

Internal Improvement bonds which had been accepted as money in their attempted purchase. The application was finally considered after the Democrats had come into power, and the new trustees resisted the motion to restore the coupons and demonstrated to the satisfaction of the Court that many of them had been paid and cancelled before they had been thus used as purchase money, and by some crooked and dishonest course had passed from the custody of the state officials and had again been received when their true status must have been known and should have been a matter of record. The Court very properly denied the motion to restore the coupons.*

After the adjournment of the regular session of 1870, a paper purporting to be an Act of the Legislature, signed by the Governor, the President of the Senate and the Speaker of the Assembly, was found in the office of the Secretary of State with the acts that had reached there in due course of legislation. It was entitled "An act to authorize the Governor to ask for and receive the Agricultural Land Scrip from the United States."

It was a forgery. No such act had been passed. No bill of this title had been introduced, though one having a similar purpose had been before the Legislature, but failed to become a law. The Trustees of the Agricultural College, which was established at the same session, to secure the benefit of the wise educational provision made by the Congress, were vested with power to control this scrip, and it was transferred and assigned to them and their successors as a basis for the support of the college. The effort to divert it to the Governor's possession was probably suggested by the desperate financial condition of the state.

C. T. Chase was the State Superintendent of Public In-

* The reader is referred to the records of the cases cited in the note which went to to the Supreme Court of the United States for a fuller statement of the facts relating to the injunction and receivership.

Trustees vs. Greenough, 105 U. S., 527.

Union Trust Co., vs. Southern. *Inland N.* and I. Co., and Trustees *of I. I.* Fund. } U. S. Sup. Ct. No. 191 October Term, 18[illegible]

struction. He went to Washington and called on Secretary Cox to arrange for receiving the scrip, as one of the Trustees of the Agricultural College. He found that the Governor had already claimed it under the forged statute. The matter was considered and deliberated and at last came before the President and his Cabinet. The following extract from one of Mr. Chase's letters will show the impression made upon them by this unparalleled proceeding.

"On my return from New York, the Secretary informed me that he had been favored with several interviews with His Excellency, Governor Reed, and a written communication about the Land Scrip, that he, the Secretary, had brought the matter up before the Cabinet, and that General Grant and Attorney-General Hoar, with others participated in the discussion, and that the final conclusion arrived at was, that the scrip should not be issued under that claim, but that one point remained undecided, to wit: 'Whether the Secretary, being an executive officer of the United States, could go back of the certificate of the Secretary of State under seal of state and inquire into the validity of a law.' At a subsequent interview, the Secretary informed me that Attorney-General Hoar had decided that question in the negative, therefore, if he took any action in the matter, he should be obliged to recognize the document. Yet in his own mind, he was morally certain, from all that he had learned, that it was not a law, and that if it were, he should still feel that it was wrong for him to issue the scrip to the Governor to be used in the manner which the Executive informed him he purposed to use it; that was in connection with the general finances of the state, and that he had, or should, so inform His Excellency."*

The Governor foiled in his efforts to get the scrip, came home to call the Legislature in extraordinary session, so that some further scheme might be devised for keeping the wheels of government in motion. The friends of the college, however, rallied and prevented him from getting authority to use these educational funds for ordinary state purposes.

Much interest was felt in the approaching election for a

*Senate Journal, Extra Session 1876, page 82.

presentative in Congress and a Lieutenant-Governor to fill
e vacancy caused by the ouster of Gleason, which had been
nporarily filled by the appointment of Edmund C. Weeks
the Governor. Samuel T. Day for Lieutenant-Governor
d Josiah T. Walls for Representative, were the Republican
ndidates. The Democrats nominated William D. Bloxham
r Lieutenant-Governor and Silas L. Niblack for Represen-
tive in Congress. Niblack was elected by a majority of
8, and Bloxham by a majority of 64. But the work of
e people had to undergo the manipulation of a counting
ard. The returns from nine counties, eight of them Dem-
ratic, were held back and did not reach the State Capitol,
icially, till the result was announced and the defeated Re-
ublicans had received certificates of election.

Bloxham challenged Day's title in the courts and finally
ined his office by the judgment of the Justices, the majority
them being of Republican antecedents.

Niblack contested Wall's seat and the records of the Forty-
cond Congress will show that he was declared elected and
as seated. But the Republican majority delayed their just
tion until the closing days of the last session.

The most shameful part of this affair was the arrest and
osecution of P. W. White, Judge of the Circuit Court, in
e circuit in which the state capital was included, who, upon
mplaint of Bloxham, had issued an injunction to restrain
e counting of the vote until all the returns had been
ceived. It was charged that his official act was a violation
the Federal election laws and the machinery of the United
ates Court was corruptly and wickedly used to hinder the
e course of justice and facilitate the efforts of the conspira-
rs. After their purpose had been accomplished the prose-
tion of Judge White was not further pressed.

The fourth regular session of the Legislature was famous
r the contests for seats and the unblushing disregard of the
ill of the people by the Republicans. The Democrats had
ected a majority of the Senators but the election machinery
as *supervised by a returning* board whose majority was
publican and the usurper, Day, was the presiding officer.
wo regularly elected Democrats, Sutton and Maloney

were denied their seats. A third, Ross, was seated upon his certificate, but was afterwards ousted on a contest, by excluding from the count a Democratic precinct, upon the ground that the clerk was a non-resident, although he was a duly registered voter. The contestant in this case, Johnson, was seated when only half of the Senators were present, as shown by the yea and nay vote on the question of adopting the committee's report on the subject, although the Supreme Court had, but a short time before decided, that a majority of the full number of Senators, authorized by the Constitution, alone constituted a quorum, and that a less number could only enforce the attendance of absentees or adjourn.

Two Republicans claimed the right to represent the Duval County District. W. H. Christy had the certificate and was seated, but was ousted by Horatio Jenkins, Jr., on the fourth day of the session. Christy had been supported by one wing of the Republicans aided by Democrats who believed him to be a more conservative man than his opponent. Jenkins was seated by accepting the results of the famous Yellow Bluff fraud.

A forged return which added two hundred and fourteen to Jenkins' vote was substituted in place of the true return, on the way from the voting-precinct to the Court House. Without this fraudulent addition Jenkins was defeated. The inspectors appeared before the county canvassers and pronounced the signatures to this return to be forgeries, and it was rejected. The guilty tool who committed this crime was tried and convicted, though the State Senate, with all the facts before it, had wilfully accepted the forgery and cast aside the honest return. The same spirit was exhibited in the lower House.

After Gleason had been driven from the office of Lieutenant-Governor, he desired to continue his personal influence in the Legislature, where he had inaugurated many "improvement" schemes while presiding over the Senate. He claimed a home in the remote county of Dade, where he and his friends held all the county offices. At the election W. H. Benest was regularly elected to the Assembly. No one disputed his right to the seat. He was delayed on his journey and reached Tallahassee a day or two after the Le

ıture had met, and to his surprise found Gleason recognized s the member from Dade, and serving as chairman of the wo most important committees, on the Judiciary and on Finance and Taxation, besides having a membership in others f nearly equal importance. Gleason was not in the state on he day of the election, and was not then a candidate for the osition. On coming to his county afterwards he pretended o call a special election, ignoring that already held. The Governor alone had this power under the law. Those in the ecret went through the sham of an election, and with a cer- ificate of the result he presented himself on the first day of the session, and was admitted on this piece of paper, worth- less upon its face, and held his seat until the final adjourn- ment. Benest was vigilant in pressing his rights, but could not even get a report from the Committee on Elections till the very last day of the session.*

At the regular session of 1872 the Comptroller reported a most discouraging condition of the state finances. The war- rants issued for the past year were $135,486 in excess of the receipts. The rate of state taxation, which had been 16⅔ cents on the hundred dollars in 1861, and 50 cents in 1867, had been increased to $1.37.† The bonded indebtedness of the state was increased from $466,364.63 in 1868, when Reed became Governor, to $1,269,973.33, besides the railroad issue of four millions which had not yet been declared illegal. The outstanding warrants and certificates had, in the same period, increased from $57,492.32 to $458,892.20.

The burden of taxation was made heavier by a system of equalization of valuation. The Comptroller thus speaks of the high rate of taxation and of this system: "We have resorted to a rate of taxation under which the people suffer and every branch of industry is crippled." "And when it is a fact that the property paying these taxes is not valued by its owners, but by an entirely impracticable system, and an en- tirely incompetent body, both in state and counties, it is not surprising that its owners should be dissatisfied." "The

* *Assembly Journal, 5th Session*, 1872. Appendix, pages 1-6.
† *This was in addition to the county tax which in many counties was ger than the State tax.*

average value of property, both real and personal, has decreased since 1870, yet the aggregate value for the basis of taxation is increased $49,737.31."

The Governor complains in his message that more than two-thirds of the bonds issued in aid of Littlefield's road had been wasted without making any real progress in the work. He says: "It appears that the bonds were entrusted by the company to one of the firms of swindlers who abound in New York, which, by fraud and villany, have diverted much of the proceeds from the work on which they were issued, and there remains but $1,200,000 for the purpose of extending the road beyond the river."* And he might have truthfully added that none of it was expended in road-building or improvement on this side of the river.

The impeachment proceedings were renewed and reached their culminating point at this session in the exhibition of twelve articles, and a few days later four additional ones, charging the Governor, among other things, with conspiring with Littlefield and others to embezzle moneys belonging to the state, accepting bribes, defrauding the state, and falsifying his own official acts. By a unanimous vote the Assembly adopted the articles, and a committee was appointed to impeach him, before the bar of the Senate of high crimes and misdemeanors, incompetency, malfeasance in office and conduct detrimental to good morals. His suspension from office followed. Prominent among the members of the committee which preferred these charges was a citizen of African descent named John Wallace, who was afterwards in the State Senate, and has since published a work on "Carpet-bag Rule in Florida," in which Reed is represented as carrying on a constant struggle for the right against the corrupt men who at this period controlled and dictated the policy of the Republican party.

The Legislature adjourned without trying the impeachment case, leaving the reins of government in Day's hands, who had been counted in as Lieutenant-Governor, to the exclusion of Bloxham. This situation was satisfactory to Reed's enemies, for a state election was approaching, and the control of the official patronage would have enabled them to dictate the

*Assembly Journal, 1872, p. 35.

and Congressional nominations and the National offices
ıe ensuing four years. But there was an obstacle in the
Bloxham's just claim to the office of Lieutenant-Gov-
· was being vigorously pushed and the final decision of
ıpreme Court could not be much longer delayed. His
ıel had first proceeded by mandamus to compel a correct
ıss of the votes, but, when on the threshold of victory,
ıw under which the canvass should have been made was
ptitiously repealed. The Court, though clearly stating
ham's right, would not direct the Board to proceed under
· which no longer existed. The new action which had
immediately commenced was soon to be decided, and the
t must give the state a Democratic Governor unless the
achment could be dismissed. Terms were made with
. Day called an extra session of the Legislature to meet
l 23d, 1872. On the fourth of May it was decided that
continuance of the impeachment case without trial to
ıer session was in effect a discharge and acquittal of the
ırnor, and he was restored to his office, but he was never
ʻed of the opprobrium of the impeachment charges.
ıe expected judgment in Bloxham's favor was rendered
1st, and for seven months, after all the duties of his
had terminated, he enjoyed the barren title of Lieuten-
ıovernor.
ıe nominating conventions met during the summer.
ham was the Democratic candidate for Governor and
ral Robert Bullock, now a member of the 51st Congress,
ıominated for Lieutenant-Governor. The new apportion-
gave Florida an additional Representative in Congress
the nominees were Charles W. Jones, who afterwards
sented Florida in the Senate, and Silas L. Niblack, who
till engaged in his contest in the 42d Congress.
ving to the strife in the carpet-bag element of the
ıblican party, it was deemed prudent to select a
date for Governor from among the Southern white
bership, and Justice O. B. Hart was selected. The
t-baggers were represented by M. L. Stearns, who had
speaker of the Assembly, who held the second place on
icket, and by W. J. Purman, who was a candidate for

Representative in Congress. The freedmen received recognition by the nomination of J. T. Walls as the other candidate for Representative. Reed was appeased by a vote endorsing his administration and a hollow promise of the succession to Osborn's seat in the Senate.

The Democratic victory of 1870 and the character of the immigration which had since flowed into the state made it manifest that unless some extraordinary means were used Bloxham and Bullock would lead their party to victory.

The Republican gain over the Democrats was in the counties having a large negro population. In two of these, Leon and Jefferson, where there had been no increase of population by immigration the Republican vote was increased from 2,824 to 4,566 while the Democratic vote was only increased from 1,202 to 1,379. This remarkable gain was enough to give Hart the majority declared in his favor of 1,553. There was a like increase in other countities of the black-belt sufficient to offset the entire increase in the Democratic vote.

As the whole machinery was in the hands of the Republican office-holders, inspectors and clerks, it was easy to arrange for such a result. The same voting lists were at every precinct in the county; the precincts were conveniently arranged near the centres of the black population; there was no obstacle in the way of voting at every precinct within reach, even in the same name; there were plenty of duplicate names on the lists; and a few skilled manipulators had no difficulty in managing an army of docile and obedient voters so as to produce the result determined upon before the election.

The Republican ticket was declared elected, and Governor Hart was inaugurated in 1873.

His first message showed that he fully realized the deplorable condition of the state. Outstanding warrants for current expenses were fearfully increasing at double rates. There was no money in the State Treasury even to pay express charges or telegraph fees. Back taxes to the amount of $598,000, had failed to reach the treasury, and he urged that *assessors* and collectors be compelled to do their duty. He *uses these words:* "I doubt if there is another state in which

reat a proportion of the revenue is withheld from the
ury after it has been paid to the proper officers by the
payers." *

e charges revenue officers with substituting depreciated
for moneys collected from the people, and falsely swear-
hat these identical warrants were actually received, "thus
ig at defiance the criminal code, cheating and thieving
ublic for the purpose of pocketing the difference, and
ng perjury to fraud without fear of punishment." †

ith reference to the bribery, which was notorious and
h had been forced upon his attention while a member of
Supreme Court by the Pearce Appeal, he says: "If our
ers and Legislators are not beyond the reach of those
would tempt them from their duty, then indeed have the
les of law and justice become the dens of thieves." ‡

e speaks thus of the frequent election frauds: "It has
to be regarded as a matter of grave concern, whether
hoice of officers depends upon the voice of a majority of
people of the state or counties, or whether it depends
the skill of a board of canvassers in receiving or re-
ng, upon petty and technical grounds the evidence of the
lt." §

conclusion he calls upon them to endeavor to lift the
"out of the slough of insolvency into which she has
n, not through any lack of resources, or fault of her own,
through the criminal neglect and malfeasance of those to
m she had entrusted the duty of receiving from her people
means of support which they, the people, are ever ready
fford her." ‖

he sequel demonstrates that Hart, with all the good in-
ions which permeate this message, was powerless to effect
form under the circumstances which surrounded him. He
reached his high office by the votes and methods of the
whose crimes he was condemning. The bankruptcy of
state, the incompetency and malfeasance of her Republi-
officials, had not weakened the party under whose admin-
tion this state of things had become possible. The hand-

* Assembly Journal, 6th Session, 1873, pp. 38-41.
† Do. p. 41. ‡ p. 44. § Do. p. 44. ‖ Do. p. 47

ful of white leaders had no difficulty in controlling its vast negro majority, and their inexperience in governmental matters, the dense ignorance and stupidity of the large mass of them, their deficient sense of honor and integrity, their failure to appreciate the duties and responsibilities of their new citizenship, made their numerical strength a constant menace to good government, as long as they were under the control of political leaders, whose misgovernment had called forth these severe rebukes from one whom they had so recently elevated to the Gubernatorial office.

Wallace in his work on "Carpet-bag Rule" gives an interesting account of this session. To use his own language: "This was a gala day for the colored brother." S. B. Conover became Speaker of the Assembly, and during the session was chosen to succed Osborn in the Senate. Wallace says that money was freely used in this contest but that the Republican rivals of Conover had the largest supply. He was among the tempted but when offered money as an inducement to stand firm in the Conover ranks he virtuously promised to do so without money and advised the tempter to "buy those who desired to sell" and the briber "went flying to other parts of the battle-field to use the money where it would do the most good."

This work should be read by all who seek to know the inside history of this corrupt period. Many of its details are inaccurate and there are manifest errors and mistakes of fact when the author gets beyond his personal experience, but within that range there is no reason for doubting his disclosure of plots, intrigue and villany. It would require the experience in crime of a Titus Oates or the imagination of a Munchausen, to invent all the details of this history.

One of the election contests of this session justifies the severe language already quoted from the Governor's message. Dade county occupies the extreme south-eastern part of the Florida peninsula. In territorial extent it contains more than seven thousand square miles, but according to the previous census of 1870, the population was only 85. Yet it was entitled to a member of the Assembly, and with the adjoining county of Brevard, with a population of 1216, formed a *Senatorial District.*

It was in counties like these, thinly populated and remote from communication, that the Republican workers plied their schemes to control the Legislature. Only about nine of the thirty-nine were safely Republican after the disabilities resulting from the war had been removed. Enough of the others to make the desired majority were managed or manipulated by some sharp or crooked device on the day of election, or treated by the counting out process applied later.

The Benest contest came from this same county of Dade.

November 5th, 1872, E. T. Sturtevant was Judge of the County Court. Gleason, who had occupied Benest's seat, was now Clerk of the Circuit and County Courts; together they composed a majority of the Board of County Canvassers and, in the absence of the third member, the entire Board.

Only one precinct was opened in the county on the day of election. At that Sturtevant was one of the inspectors, and Gleason was clerk. Both were candidates at the election, the former for the Senate, the latter for the Assembly, against J. J. Brown, the Democratic candidate. When the election closed it was regularly announced, in the presence of the voters, that the majority of the votes had been cast against Sturtevant and Gleason, who had each received fourteen votes, and this result was duly certified, and the two defeated candidates signed the required certificates, acting under oath as election officers.

Before the meeting of the County Board, the defeated candidates prepared a petition to themselves as a County Board, alleging that certain foreigners had voted without producing their naturalization papers. These were old citizens of the county who had frequently voted before, and no one at this election had challenged their right to vote, or asked for their papers.

The Board acted on this petition and deducted the number of votes cast by these citizens from the votes of their successful opponents without taking evidence as to how they voted, thus reversing the result, and as County Canvassers certified this false result in their own behalf to the State Capitol.

Israel M. Stewart, the Democratic candidate for Senator, who was thus robbed of his majority in Dade, received in his own county of Brevard 39 out of the 69 votes, but none was

cast there for Sturtevant. In order to complete this outrage, the Brevard returns were held back by the Republican officers of election, or detained by the United States mail agents till the State Canvassers had met and announced the election of Sturtevant and Gleason, and they were accordingly seated, upon their minority vote of 14 from a single precinct in Dade.

The majority of the Committee on Elections of the Assembly simply reported that "we are of the opinion that William H. Gleason is entitled to his seat." They denied none of the conclusions of fact reached by the minority. Their report was adopted and Gleason retained the seat against Brown.

There was no final determination of Stewart's contest against Sturtevant during the first session of the Senate. The term was for four years, and it was renewed at the second session two years later, but without effect.

Wallace was chairman of the Committee on Elections which reported in favor of Gleason, and was in the Senate at the next term, where he supported Sturtevant whenever action was attempted in Stewart's favor. In his book he mentions his vote in Sturtevant's behalf as one of the only two acts committed during these days of reconstruction which he regrets.

Governor Hart was in feeble health when he commenced his term and went to a more Northern clime after the adjournment of the Legislature. In his second Message he spoke of the state finances in rather a more encouraging tone, but there was little actual improvement, and his hopes for the future were not realized under his successor, nor would they have been had he lived, for the personal integrity of one man could not check the prevailing tide of extravagance and corruption. He died soon after the adjournment of the Legislature of 1874, enjoying the respect of all who knew him, and amid general expressions of regret.

The new Governor, Marcellus L. Stearns, had been prominent among the extreme men of his party all through this reconstruction period. He went to Florida as an officer of the Freedmen's Bureau, and this position had given him influence with this class of voters. His administration was *but little more* than a continuance of those which preceded *it. His personal* integrity was assailed even more bitterly

than that of Reed's. Purman was high in the counsels of his party, and had abundant opportunity to know what his associates had done. He delivered a speech in the House of Representatives, March 9th, 1875, in which he assailed Stearns bitterly and brought some serious charges against him. But these accusations injured neither with his party friends. The Republican Convention of 1876 nominated Stearns for Governor and Purman for reëlection to the National House of Representatives, and they went lovingly through the campaign on the same ticket, notwithstanding the wickedness or the slanders of the past.

Before this history closes some further mention should be made of the abuse of the process of the United States Courts to aid the plans of the Republican leaders. I shall relate but two instances.

At a municipal election held in Tallahassee, during this period, a number of influential Democratic voters were absent. The election was close. The absence of these voters was procured by summoning them to appear on the morning of the election as witnesses before the United States Court at Jacksonville, more than one hundred and sixty miles distant. They were not used or needed as witnesses but were detained till the election was over and the Republican ticket elected, and then dismissed.

The State Senate was, on one occasion, organized in a similar way. It was nearly evenly divided; there were several contested seats. On the morning of the day fixed for the meeting of the Legislature, Senators Crawford and McCaskill were arrested on fictitious charges and carried to Jacksonville by a Deputy United States Marshal. They were held there upon the warrants of arrest till the Republicans had completed their plans and organized the Senate, and were then discharged.

The closing months of Stearns' administration will ever be memorable, on account of the great election contest of 1876, which was felt throughout the whole country. The author has already given an account of it in a speech delivered in the United States Senate during the Fiftieth Congress. Stearns headed the Republican ticket and George F. Drew *was the successful Democratic* candidate.

The Democratic State Committee could not prevent the action of the Electoral Commission, but when their state ticket was counted out, they forced the Canvassing Board, through the process of the State Supreme Court, to make an honest count. It is pleasant to be able to add that a majority of the justices who rendered the judgment against this Board were Republicans in their political faith, but they administered the laws without reference to politics. The inauguration of Drew as Governor and Noble A. Hull as Lieutenant-Governor and the organization of a Democratic Legislature followed and the state was redeemed.

Reviewing the history of this period from 1868 to 1876, we find a record of extravagance, corruption and wasteful expenditure. The enormous amounts taken from the tax-payers and raised by mortgaging the industry of the future were all consumed with nothing to show for the outlay. No public buildings, no institutions for the unfortunate, no colleges, normal schools, or seminaries were built or aided from the state treasury during this period. The school system, though liberally supported by taxation, had disappointed the reasonable expectations of the people. Crime had gone unpunished. Property was unsafe. Farmers almost abandoned the effort to raise meat because of the constant depredations upon their stock. Many of the magistrates were incompetent, some were notoriously corrupt, and thieves and depredators were not seriously alarmed at the prospect of a conviction before a negro jury. The effect is illustrated by the following table which gives the valuation of personal property at different dates, in seven of the large agricultural counties, comprising some of the wealthiest portions of the state at those times.

VALUATION OF PERSONAL PROPERTY.

Counties.	1867.	1870.	1873.	1875.
Alachua,	$ 750,944	$542,674	$371,422	$348,349
Gadsden,	835,666	493,848	392,865	338,760
Jackson,	667,371	544,940	495,400	415,970
Jefferson,	816,858	753,302	506,325	415,512
Leon,	1260,820	945,623	903,088	662,884
Madison,	493,195	446,256	372,647	363,478
Marion,	694,291	539,489	515,143	444,347
	5,519,145	4,266,132	3,556,890	2,989,300

This amounts to a net reduction of over 45 per cent. in eight years.

The receipts and expenditures of the four years covered by the administrations of Hart and Stearns were as follows:

RECEIPTS AND EXPENDITURES OF THE STATE FROM 1873 TO 1876.

Years.	Receipts.	Expenditures.
1873	$664,405.31	$536,192.55
1874	401,679.68	292,037.37
1875	384,735.24	290,261.43
1876	286,280.58	260,187.19
Total	$1,737,101.31	$1,378,978.54

Showing an average of expenditures of $344,744 63 per annum as compared with the average of $346,189.32 during four years of Reed's administration. The county expenditures and taxation were additional to those of the state enumerated in these tables.

This sketch will be closed by comparing some of the figures of this period of reconstruction and Republican mis-government with the results that followed as soon as the Democrats came into power under George F. Drew and continued under successive administrations.

When the Republicans went out of power, they had established in nine years under their school system 676 schools, attended by 28,444 scholars. The amount raised for schools by taxation and their management of the state school fund during their last year of power was $158,846,36.

The following table exhibits the subsequent progress of the educational interests of the state.

SCHOOL STATISTICS OF THE STATE FOR CERTAIN YEARS.

Years.	*Schools.*	*Pupils.*	*Expended for Schools.*
1876	676	28,444	$158,846.36
1880	1,131	38,315	141,934.16
1883	1,479	51,945	249,054.08
1888	2,249	63,848	484,110.23

The *following table* exhibits the taxes assessed during the

last three years of Republican rule, and the three succeeding years of a Democratic administration.

STATE TAXES ASSESSED FROM 1873 TO 1880

Governor.	*Years.*	*Amounts.*	*Totals for 3 Years.*
Hart & Stearns	1873	$422,994.59	
	1874	429,318.09	
	1875	408,684.71	
	1876	380,858.69	$1,641,856.08
Drew	1877	330,595.60	
	1878	265,240.98	
	1879	249,879.80	
	1880	237,420.12	1,083,136.50
Saved in 4 years under Democratic administration			558,719.58
Average per year			139,679.89

The following table exhibits the steady increase in the taxable property of the state since the last year of the Stearns administration.

VALUE OF THE REAL AND PERSONAL PROPERTY IN THE STATE OF FLORIDA AS ASSESSED FOR TAXATION AT DIFFERENT DATES.

Years.	*Total Amounts.*
1876	$29,688.337
1880	31,157,846
1883	55,249,311
1888	87,552,447

SAMUEL PASCO.

CHAPTER VII.

RECONSTRUCTION IN TENNESSEE.

THE Legislature of Tennessee was in session at the time of the Presidential election in 1860. There was no public man in her borders at that time who was either an avowed abolitionist or a disunionist, *per se.* The successful candidate for the Presidency had received no vote in Tennessee. The people were apprehensive of the grave results which eventually followed that election; but they determined to wait. While other states south were passing ordinances of secession and appealing to Tennessee to join them, she declined hasty action. As late as February, 1861, her people expressed their desire to remain in the Union by a majority of 67,054 in a total vote of 116,552. They declared at the same time their opposition to holding a delegated convention to consider and determine what should be done in the impending emergency, by a majority of 11,875. They opposed secession, and equally opposed civil war. Had no gun been fired, Tennessee would not have changed her position.

When, however, the officer in command of Fort Sumter in Charleston harbor refused to recognize the Confederate authority, and President Lincoln ordered supplies to him, the approach of the steamer "Star of the West" with these supplies drew the fire of Confederate guns, and when this was quickly followed by a call from Mr. Lincoln upon Tennessee for volunteers to march upon the South, the shock came, and was electric. In less than sixty days the people of the state had voted to separate from the Union and to become a member of the Confederate States by a vote of 104,913 to 47,238.

In less than a year, March, 1862, Andrew Johnson was transferred from the United States Senate (which he had not *before left) and installed* as Military Governor of Tennessee by

appointment of the Secretary of War, under the protection of the Federal Armies. His authority as defined in his appointment was, "to exercise and perform within the limits of the state, all and singular, the powers, duties and functions pertaining to the office of Military Governor, including the power to establish all necessary offices, tribunals, etc."

September 19th, 1863, the President sent him a supplementary authorization "to exercise such powers as may be necessary and proper to enable the loyal people of Tennessee to present such a republican form of State Government as will entitle the state to the guarantee of the United States therefor, and to be protected under such state government by the United States, against invasion and domestic violence, all according to the Fourth Article of the Constitution of the United States."

The office was new to the laws and history of the state and country. Its powers and duties were limited only by the will of one man, the occupant. As the Federal Armies advanced southward, Governor Johnson proceeded to make appointments, and fill vacancies with loyal men. The vast majority of the offices were vacated upon the Federal military occupation of the country. In truth the active duties and functions of the civil authorities were practically suspended in every part of the state open to a conflict of the opposing forces, and these parts embraced nearly its entire extent.

During the years 1862 and 1863 the operations of the contending armies in and for Tennessee were not of such decisive character as to give permanent foothold to either. The progress made, therefore, by the Military Governor toward restoring civil administration, amounted to little. Towards the close of 1863 the Federal forces occupied the state from a line forty miles east of Knoxville to Memphis, with strong garrisons at both these points and at Nashville, Chattanooga and other points. Their successes elsewhere during the summer and fall campaigns of this year in the capture of Vicksburg and relieving the Mississippi river from hostile obstructions from source to mouth, the repulse of Lee in Pennsylvania, besides their holdings in the Carolinas and *northeastern Virginia,* induced the President to seriously con-

sider the rehabilitation of such states or parts of states as were deemed permanently under the Federal control. He determined to issue a proclamation of amnesty as the first step in this direction. This document accompanied his annual message to Congress, and was dated the 8th of December, 1863. It embodied his plan of reconstruction, and promised "pardon and restoration of property, except as to slaves, to all who directly or by implication have participated in the existing rebellion, with certain exceptions specified, upon their taking an oath to "henceforth support, protect and defend the Constitution of the United States and the Union of the States thereunder; abide by and support all acts of Congress passed, and all proclamations of the President made with reference to slaves, so far and so long as not repealed, modified or held void by Congress or by decision of the Supreme Court." He further promised that whenever a number of persons in and of the states at war with the Union, not less than one-tenth of the vote cast in the Presidential election of 1860, and being qualified voters under the laws previous to secession, shall reëstablish a State Government, republican in form and in nowise contravening the said oath, "such shall be recognized as the true Government of the state," etc., etc. This was, substantially, Mr. Lincoln's plan of reconstruction.

The first step subsequent to its promulgation, taken by the Military Governor of Tennessee, was a proclamation, dated January 26th, 1864, ordering county elections to be held on the first Saturday in March. In this proclamation he announced that these elections were ordered in Tennessee as a state of the Union; prescribed the qualification of voters and an oath to be taken by each elector before voting. This oath varied from the one prescribed by the President, in requiring the affiant to support and defend the Constitution of the United States, and to promise to "conduct himself as a true and faithful citizen of the United States," ardently desiring the suppression of the present insurrection and rebellion against the Government of the United States, etc., etc.

The marked difference between the oath required by the *Proclamation of the President* and that of the Military Gov-

ernor attracted attention, and the question arose as to whether the amnesty oath would not be sufficient for a voter, without taking that prescribed by the Governor, and was submitted to the President, who replied, "In county elections you had better stand by Governor Johnson's plan, otherwise you will have conflict and confusion. I have seen his plan."

This election was a failure. Comparatively few of the qualified voters appeared at the polls. At military posts, such as Nashville and Memphis, Government employees who had been in the place six months, contributed the larger part of the vote, small as it was. Davidson County (including the Capital of the state) cast only 1229 for Sheriff out of 6665 votes cast in 1860. Only a few counties voted at all.

In the meantime there were certain Unionists, persons who, in the earlier stages of the war, had made themselves conspicuous in opposition to the then-existing order of things, and who were now impatient because the state was not resolved to harmonious relations with the Union. They were not warriors, but statesmen; refugees at one time, and, at another, in some coterie or meeting of persons of like situation, bewailing together the deplorable condition of the country. These men were never contented with the movements of the armies nor with the measures of civil administration. Their hearts were filled with bitterness, and their minds with plans to crush and destroy the adversary. There was another class of Unionists, who remained at home and attended to their business as best they might, giving no conspicuous demonstration of elation or depression, in the varying exigencies of war, thoughtful and watchful observers of events, patriotic in their hearts and true to their convictions.

The Presidential campaign followed in 1864. On the 2nd of August of that year, a meeting was held at Nashville, which called a convention to be held on the 5th of September, to consider the reorganization of the state, and the question of putting out an electoral ticket and undertaking to hold an election for President in November.

This convention met pursuant to the call, only a few counties holding primary meetings to appoint delegates. It was largely composed of the military element, the 1st Tennessee

Cavalry, 2nd Tennessee Mounted Infantry, and the 1st Tennessee Infantry sending representatives for 33 counties. But the convention adopted a resolution admitting as qualified to participate in its deliberations, "all unconditional Union men, who are for all the measures of the Government looking to putting down the rebellion, from different parts of the state."

The convention adopted resolutions favoring the appointment of agents to look after the interests of soldiers and their families; the enrollment and organization of the militia; the immediate abandonment of slavery, and its prohibition by amendment of the state constitution; the removal from office of all disloyal men; the holding of an election for President by the Union people, and the oath prescribed in March to be required of electors; and requesting the Military Governor to execute the resolutions in such manner as he might deem best. The convention also nominated a Lincoln and Johnson electoral ticket, and appointed an Executive Committee of fifteen—five from each grand division of the state.

Another ticket favoring McClellan and Pendleton was subsequently brought out by parties not in sympathy with the convention, but was withdrawn before the election.

On the 7th of September, 1864, during the session of the convention, the Military Governor issued his proclamation declaring his purpose to proceed to appoint officers and establish tribunals, as he had heretofore done, in all the counties and districts of the state, wherever the people gave evidence of loyalty and a desire for civil government, all officers to take the oath last prescribed.

On the 13th of September he issued a proclamation ordering the enrollment of the militia of the State in accordance with the wish of the late convention, between the ages of 18 and 50 years, the magistrates to be the enrolling officers, and those failing or refusing to serve without good excuse to be sent beyond the limits of the state.

On the 30th of September the (military) Governor issued his proclamation, under the request of the convention, ordering an election for President and Vice-President of the United States to be held at the county-seat or other suitable place in

every county in the state, in the following November, at which all citizens and soldiers, six months resident in the state previous to the election, being white, and citizens of the United States and loyal to the Union, were authorized to vote. "To secure the ballot-box against the contamination of treason," the oath prescribed by the convention was required of the voter. This remarkable product of a popular meeting thus became a law controlling the highest right of the citizen, and compelled the elector to swear that he was an active friend of the Government of the United States, and the enemy of the so-called Confederate States; that he ardently desired the suppression of the rebellion against the United States, etc., etc., with great amplification of detail.

Upon the appearance of this proclamation the McClellan and Pendleton electors united in a protest addressed to the President, in which they asserted that the method prescribed was contrary to the election laws of Tennessee; that it admitted persons to vote not allowed by the law; that it provided for holding the election at only one place in the county, when the law required it in each civil district; that the oath required was unusual and a test oath. They further protested against the interference of the military Governor with the elective franchise, and asked that all military interference be withdrawn "so far as to allow the loyal men of Tennessee a full and free election, meaning by the loyal men of Tennessee those who have not participated in the rebellion or given it aid and comfort, or who may have complied with such terms of amnesty as have been offered them under your authority."

This protest was presented to the President on the 15th of October by John Lellyett, of Nashville, one of the signers and one of the McClellan Presidential electors. From the accounts of the interview which reached the public at the time, Mr. Lellyett did not find Mr. Lincoln in the amiable frame of mind usual with him, or that jocose disposition with which he often looked upon the gravest concerns. The verbal interview closed without a satisfactory reply to the protest. A formal written answer was given on the 22d of October, which closed with: "Except it be to give protection against

violence, I decline to interfere in any way with any Presidential election." The effect of these events was the withdrawal of the McClellan and Pendleton ticket from the race in Tennessee. The Presidential election which followed in Tennessee was a farce. The people refrained from participating in a proceeding so far from the free and unrestrained elections to which they had been accustomed. They did not look upon this as having the sanction of law, or as possessing proper authority and regularity. At Nashville, as an example, the vote was only 1228, and came largely from Government employees. By joint resolution of Congress the electoral vote of Tennessee was not received and counted, on the ground, as stated in the preamble, that the state had "rebelled against the Government of the United States, and was in such condition on the 8th day of November, 1864, that no valid election for electors of President and Vice-President of the United States, according to the Constitution and laws thereof, was held on said day."

These fruitless steps towards reconstruction in Tennessee were discouraging, the more so from the fact that a decided difference of opinion and feeling had developed among the leading Unionists, shown in the two presidential electoral tickets. A period had now arrived that required more decisive action. The election of the military Governor to the Vice-Presidency would soon call him from the state and from his official duties as Governor.

The Executive Committee appointed by the September convention, published a call in December for the assembling of a convention at Nashville, on the 9th of January, 1865, to take counsel as to the best method of restoring the state to its proper relations with the Union. It was not expected that it would do more than to provide for a constitutional convention composed of delegates to be elected by the people, with authority to act in all matters relating to the organic law.

The convention assembled on Monday, the 9th of January, pursuant to the call. It was composed, like that of September, of comparatively few holding credentials from primary *county meetings.* It was in session five days. The result of

its deliberations was: the adoption of an amendment to the State Constitution abolishing slavery and forbidding the Legislature to make "any law recognising the right of property in man;" and a schedule which repeated the section of the Constitution forbidding the General Assembly to pass enancipation laws, annulled the military league made with the Confederate states, the state declaration of independence and the act of separation; suspended the statute of limitations from May 6, 1861; provided that actions for torts begun by attachment might not be proceeded in without personal service of process on the defendants; annulled all laws and ordinances of the second state Government, and forbade the Legislature to pay any bonds, interest or debts contracted or issued by it; and affirmed all civil and military acts of Governor Johnson. Provision was made for a submission of this action to a vote of the people on the 22nd of February ensuing; and in the event of its ratification, for an election of Governor and members of the General Assembly, the latter to be voted for on a general ticket on the 4th of March, and to assemble on the 2nd of April, following. The convention also nominated William G. Brownlow for Governor, and recommended a full legislative ticket in anticipation of ratification. This unprecedented, radical, irregular and unauthorized proceeding was attempted to be justified by an appeal to the Bill of Rights.

The election was held on the appointed day, February 22, 1865. Fifteen counties in East, twenty-one in Middle, and one (Shelby) in West Tennessee appear to have voted, to and with the vote of the soldiers, the result was: For, 25,293; against, 48.

The vote of the state at the Presidential election in 1860 was 145,333. This was considered and held as more than a compliance with the provision of the President's proclamation of the 8th of December, 1863, relating to reconstructing rebellious states by a number of loyal persons not less than ten per cent. of the vote cast in such state in the Presidential election of 1860, whereby the President came under special promise to guarantee Tennessee a republican form of government, and protect her against invasion and domestic violence. *Governor Johnson*, on the 25th of February, issued his proc-

lamation declaring the amendment to the Constitution and the schedule duly ratified, saying, "Complete returns have not yet been made, but enough is known to place the result beyond all doubt."

The election was duly held on the 4th of March, and Wm. G. Brownlow was elected without opposition, receiving 23,352 votes against 35 scattering, a falling off of 1,906 from the February election, but still within the guarantee clause of Mr. Lincoln's amnesty proclamation. The Legislative ticket received the same as that for Governor; as they were not elected by and from counties and districts as always in the past. The ballot containing the name of the Governor voted for, had also the names of twenty-five candidates for the Senate and eighty-four names of candidates for the House of Representatives, and the number cast for one was cast for all. By this method the Carter County member is voted for in Shelby, and vice versa.

A point had now been reached where reconstruction was nominally an accomplished fact, dependent for permanency on the success of the Federal arms in the contest with the Confederate States. Up to this period only one object was professed by the Unionists of Tennessee, the restoration of the state's relations to the Federal Union as they existed prior to 1861; and that object had now been achieved, so far as those adhering to the Union could accomplish it. A Governor and General Assembly, elected by a popular vote, however small, was about to assemble and start the machinery of a state administration in its old movements. The operations of the army in 1864 had left Sherman in undisturbed possession of Georgia. The old army of Albert Sidney Johnston, under Bragg, Joe Johnson and Hood, at different periods, had been broken at Franklin and shattered at Nashville, and its bleeding remnants were making their way to North Carolina to join Gen. Joseph E. Johnston in a last show of resistance to Sherman's unobstructed marches through the Southern country. Everything, therefore, was bright and hopeful for the overthrow of the Confederate cause, and the complete success of the Federal armies.

The policy to be pursued in the administration in practi-

cally restoring the people to their civil rights and privileges, offered grounds for differences of opinion and judgment.

The Legislature having convened on the 2d of April, on the 5th the Governor was inaugurated.

In a few days the surrender of General Lee and the flight of the Confederate Government from Richmond relieved them of all anxiety on the subject of their tenure. Another few days brought the assassination of President Lincoln and the succession of Andrew Johnson to the Presidency. Events had so shaped themselves that the Governor and Legislature were afforded the most brilliant opportunity for the adoption of measures for the speedy return of the people to the occupations and to the orderly habits of times of peace. From the first to the middle of May, returning soldiers, with their pledges to be and to conduct themselves as peaceable and law-abiding citizens, began to appear, in search of the homes they had left four years before. Worn and foot-sore, hungry and penniless, tired of war's disasters and privations, the ex-soldier was ready and willing to keep his faith to his parole. He cherished no hostility to his fellow-citizens who had adhered to the Union, and were now in control of state affairs. He regarded it as his first duty to build up the waste that he had found, reconstruct his home and provide himself with a livelihood. He did not concern himself at that time with affairs of state. He was content to leave them to the hands into which they had fallen. He knew well enough the irregularities, the assumptions and the unprecedented methods by which this power had been obtained, and accepted and justified it upon the broad ground of necessity. The circumstances at the time of the women, children and male non-combatants, exposed to any and every species of abuse and outrage, justified the effort to organize civil government and furnish such measure of protection as the condition and abilities of the authorities would allow. He did not complain at the fact that the civil government he found at the state capitol was the representative of not more than one-seventh of the voting population of the state. He knew well that with the prevalence of peace and order, the recuperative resources of the soil, the industry of the people, and the intelligence of the voters, the

evils apprehended would be avoided or soon corrected by the free and orderly expression of the popular will. The returned Confederate, therefore, was the friend of the established government. He knew that it was henceforth to be his government; and it became at once his interest as well as his desire to see it administered for the peace, happiness and prosperity of all. That such was not the case was not his fault. He went forward in submission to authority and in the path of peace.

The Governor and Legislature took a different view of his mind and purposes. They looked upon him as a red-handed enemy to order, with a heart filled with war and hatred of peace, ready at any moment to overturn the existing order of things, and to do all sorts of ferocious acts. In this he was to be curbed by the most stringent and rigid means at their command. To exclude him from the ballot was one of the means used as most effective. The law enacted for this purpose on the 5th of June, proscribed Confederates and Confederate sympathizers in the most comprehensive terms possible to devise. The oath required to be taken by voters when challenged, by all judges of election and candidates for office, was as rigid and comprehensive as those previously required; and practically disfranchised three-fourths or more of the people of the state.

Besides the franchise law, acts were passed at this session of the Legislature, to punish speaking or printing scurrilous libel against the State or General Government, with fine and imprisonment and disqualifying to hold office in the state for three years; to authorize the sheriffs of the state to raise a posse of twenty-five men, or as many more as they might severally deem necessary as County Guards to consist of "unquestionably loyal men," and to redistrict the state under the census of 1860 into eight Congressional districts. Among the resolutions one of the first to be adopted was the amendment to the United States constitution abolishing slavery, which was adopted on the 5th of April; also one confirming the appointments made by the late military Governor, leaving it to the discretion of Governor Brownlow to issue writs of election to fill vacancies. On the 21st of April a resolution was adopted *requesting that the* President proclaim the state to be

no longer considered in a state of insurrection. This was followed on the 9th of May by a resolution calling upon the President for troops to guarantee Tennessee a republican form of government and to protect her against invasion and domestic violence. This Legislature also elected the executive state officers, Secretary of State, Comptroller, Treasurer, and United States Senators, Judge David T. Patterson for the term expiring March 4th, 1869, and Jos. S. Fowler for the term ending March 4th, 1871; and on the 12th of June adjourned until the first Monday in October, 1865.

Elected as this body was on a general ticket, the members were not generally of the most gifted order of men, most of them being wholly inexperienced in public affairs and ignorant of the methods of legislation. There were some notable exceptions to this rule, but so many of these were radical in their views, that the voice of the conservative element was wholly lost in the mad currents of the hour. This ignorant and inexperienced majority had followed the radical lead in this first session and enacted the laws and adopted the resolutions above noted,—the franchise act having passed the Senate by a vote of twenty to one, and the House forty-two to twenty-one. Still other and more extreme measures were introduced and warmly discussed without adoption. As an indication of the spirit cherished and manifested by the "radicals" toward the so-called rebels a bill was introduced into the House on the 18th of May and passed by a vote of fifty-eight to five to prevent persons from wearing the "rebel uniform," under a penalty of $5 to $25 for privates and $25 to $50 for officers, thus punishing the Southern soldiers, then beginning to return without a dollar in their pockets, for appearing in the only clothes they had. Bills were offered depriving ministers who aided or sympathized in any way in "the rebellion" of the right to celebrate the rites of marriage, and subjecting them to the payment of poll-tax, to work on public roads and to serve in the militia, which passed the Senate and was rejected by the House; and also requiring women to take the oath of loyalty before a license should issue for her marriage. A bill *prescribing* a test-oath for plaintiffs in lawsuits only failed in *the Senate by a vote of* ten to eleven.

The interval between the 12th of June and the 2nd of October, 1865, gave the Governor and Legislature an opportunity to witness the practical workings of their reconstructive legislation. During this vacation (August 3rd) an election was held under proclamation by the Governor, for Congressmen and to fill such vacancies as had occurred in the General Assembly. An opportunity was also afforded to observe the temper and demeanor of the large majority of the people who were disfranchised. These were found pursuing their vocations as best they could under the circumstances; being really more concerned in providing the necessaries to sustain life than in who was to hold the offices, and enjoy the emoluments of public station. As a rule they were quiet and peaceful. The courts in some localities had instituted proceedings against some of this class for acts committed during the war and in a military capacity. In East Tennessee especially they were received with coldness, and, they had many personal grievances to settle. These were local, and mostly individual in their nature, and had no relation to the validity of the existing state government, or the peaceful execution of the laws by the masses of the people.

The Governor, on the 10th of July, in view of the approaching August election, issued a proclamation, which indicated his future action, warning the people that all who should "band themselves together to defeat the execution of the Act to limit the elective franchise will be declared in rebellion against the state of Tennessee, and dealt with as rebels"; that the votes cast in violation of this law, "will not be taken into account in the office of Secretary of State"; that he would "treat no person as a candidate who has not taken the oath prescribed in the 7th section of the Act, and filed it with the Secretary of State by the 3rd day of August, 1865"; concluding with: "And I call upon the civil authorities throughout the state, to arrest and bring to justice all persons who, under pretence of being candidates for Congress or other office, are traveling over the state denouncing and nullifying the constitution and laws of the land, and spreading sedition *and a spirit* of rebellion."

On the 12th of July, the Governor issued an "address to

the people of Tennessee," in which he reviewed the steps leading to and defining the basis on which the present state government was established. The substance was that the Government of the United States, being bound by the Constitution to guarantee to each state a republican form of government, had a right to choose the form best adapted to the condition of the people and the means of putting it on foot. It is not for us to criticise or complain of the form or method chosen. It has done so and complied with its obligation. The President's plan of reconstruction is a model. The Governor states, that the convention of the 9th of January, 1865, was the initiatory means chosen by the National Administration; that the convention consisted of over 500 delegates, but numbers were not essential—the National Administration could have acted even through one man in this matter; and that the State Government was forced upon the rebellious majority, for nothing but force was recognized by them. "And yet," he indignantly exclaims, "aspiring politicians in their harrangues denounce this State Government as unconstitutional, and spurious, and a usurpation!" He did not fail to avow in this address his purpose to unseat, by military force, all officers elected in violation of the franchise law, and his purpose to see that Congressmen so elected should not take their seats.

This August election was unattended by violence in any part of the state, and resulted in the election to Congress of Nathaniel G. Taylor, Horace Maynard, Wm. B. Stokes, Edmund Cooper, Wm. B. Campbell, Dorsey B. Thomas, Isaac R. Hawkins and John W. Leftwich, for the districts in the order named. The total vote cast in the state was 61,783.

On the 11th of August and before the returns were received, the Governor, in pursuance of a purpose, hinted at in his proclamation of July 10th, and more openly avowed in his address of July 12th, issued a proclamation calling upon clerks, sheriffs and loyal citizens for information as to whether the registration had been in accordance with the requirements of the Franchise law. Acting upon information *thus derived, he threw* out, and refused to count, the votes of *twenty-nine counties*, casting a vote of 22,274, leaving the

total legal vote, 39,509. The vote cast out was in every district, and applied to every candidate; but changed the result in only one district—the sixth.

Dorsey B. Thomas of Humphreys, received 2,805 votes, while Samuel M. Arnell, of Maury, received 2,350. By the Governor's count, he discarded 2,284 of the vote of Thomas and elected Arnell by a majority of more than 1,000, and Mr. Arnell took his seat with the rest when they were admitted on the 24th of July, 1866. They were all elected as Union men, as friends and supporters of the present State Government; but Taylor, Cooper, Campbell and Leftwich were conservatives, opposed to disfranchisement and test oaths, and in favor of a compliance with the terms of peace as made upon the cessation of armed hostilities; while the others were extremists, and denominated "radicals" in the parlance of the day. This action of the Governor did not pass without criticism and rebuke in the Legislature, though sustained by that body. It was truly characterized as an assumption of power unwarranted by law, unjustified by facts, and an act of despotic usurption, pure and simple. A minority in both the Senate and the House demanded a showing of the papers on which this unauthorized, flagitious usurpation was based; but the majority declined to yield to their demands.

But neither the Senators nor Representatives from Tennessee were admitted to their seats in the Thirty-ninth Congress at its opening on the first Monday of December, 1865, a few of the reasons for which there should here be briefly stated.

From the day the oath was administered to him as President, to the meeting and organization of this Congress, Andrew Johnson steadily pursued the plan of reconstruction formulated and adopted by President Lincoln prior to his death. In this he had every reason to expect the support of the friends of Mr. Lincoln; and by it to speedily restore the late "rebel" states to their former constitutional places in the Union, and their proper relations to the Federal administration. Under this plan the theory that the states had ever been out of the Union by pretended acts of secession, was denied, and it was contended that the power to execute the Fed-

eral laws, had been temporarily suspended in these states by armed resistance; that as soon as that resistance was overcome and ceased, the Executive should see that the laws of the Union should be observed and enforced therein; that the people should be afforded an opportunity in conventions to annul the acts and proceedings by which they had put themselves in antagonism to the Federal authority, and to take such action as would conform their constitutions and governments to the changes which the war had wrought in the Government during its progress; that having done this and elected Senators and Representatives to Congress, it only remained for the two Houses respectively to judge of their election and qualifications in admitting them to their seats.

Congress took a wholly different view of the situation, and refused to recognize the new state government. The Legislature met in adjourned session on the 2d of October. The Governor's message was hopeful in tone. He stated that the county clerks had been neglectful of duty in some instances, and advised that the franchise law be amended in some respects, but not repealed. He advised "full pardon to the masses—the young and deluded, who followed blindly the standard of revolt, provided they act as becomes their circumstances." The unrepentant should suffer the five years of disfranchisement, while the active leaders "are entitled neither to mercy nor forbearance." There were some negroes he would now give suffrage, but he was opposed as unsafe to conferring the right on all. He still favored their colonization as the best disposition to be made of the race. The message was elaborate, and discussed at length the state's interest in railroads, turnpikes, schools, the public debt, etc.

Up to this time the negro was a disagreeable subject to handle. While conforming the constitution to Lincoln's emancipation proclamation, in January, February and April, 1865, the members of the Legislature, who largely composed the convention of January seem not to have anticipated the rapidity with which that question would swell in their hands. In his inital message, Governor Brownlow, had opposed the granting suffrage to the negro; and had favored his removal *from the United States*, and colonization elsewhere by the

general government. Such an idea as civil or social equality, had not been seriously entertained, and yet these questions were held to be of fully as high importance by the reconstructionists in Congress, as those relating to the "rebels" were by the reconstructionists in Tennessee. There was a strong disposition on the part of the majority of them, to avoid the issue. A prominent Senator from East Tennessee, early in the April session, introduced a resolution as the sense of the members that they would support no man for United States Senator who favored negro suffrage. All the rights he had so far acquired by obtaining his freedom were secured through the "Freedmen's Bureau," an institution created by Congress, administered by military agents. The first step was taken on the 25th of January, 1866, making him, with Indians, a competent witness in all the courts of the state, to the same extent as such persons are competent in the United States Courts by act of Congress. This was not adequate to the emergency then existing; and on the 26th of May, 1866, the Legislature gave the negro the right "to make and enforce contracts, to sue and be sued, to be parties and give evidence, to inherit and have full and equal benefits of all laws and proceedings for the security of person and estate," to be punished not otherwise for crimes and offences than white persons in like cases; to be entitled to the same public charities as the whites; but he might not serve on juries, nor go to the same schools with the white children.

The chief objective point of legislation was to perpetuate the political power of the radical minority by excluding from the polls the majority. The Unionist minority had become hopelessly divided, as was shown by the defeat of one-half the radicals by conservatives in the August Congressional elections. An act to amend the act of June 5th, 1865, was therefore matured and passed on the 3d of May 1866.

This amended franchise law disenfranchised all citizens, otherwise qualified, "who have voluntarily borne arms for, or given other assistance to, sought, accepted or exercised the functions of office under, or yielded a voluntary support to the so-called Confederate States of America, or any state *whatever, hostile to or opposed* to the authority of the United

States Government," provided for a commissioner of registration in every county to be appointed by the Governor and removable at his pleasure; and required the applicant for a certificate, authorizing him to vote, to prove by two witnesses, entitled themselves to vote under the law, that he is so qualified, and also take an oath that he "was rejoiced at" the defeat of the Confederacy, with many other tests the phraseology of which is too ample to be quoted here.

This legislation would indicate either, that the "rebels" were a great deal more aggressive and dangerous than they were a year before; or the radical numbers and strength were decreasing, and it became necessary to reduce the number of voters by creating additional restrictions and tests. To keep up the spirit of hate and bitterness, a resolution was offered and adopted by good majorities in both houses, "that Jefferson Davis, Jas. M. Mason, R. M. T. Hunter, Robert Toombs, Howel Cobb, Judah P. Benjamin, Jno. Slidell, Robert E. Lee and Jno. C. Breckenridge have justly forfeited their lives; and that in expiation of their great crime, and as an example for all time, they deserve and ought to suffer the extreme penalty of the law and be held as infamous forever."

All this harshness toward "rebels," and half-hearted friendship to the negro, however, was not sufficient to open the doors of Congress to the anxiously awaiting Senators and Representatives from Tennessee. The Fourteenth Amendment to the Constitution of the United States was yet demanded. On the 19th of June, 1866, three days after its submission by Congress, the Governor issued his proclamation convening the Legislature to assemble on the 4th of July in extra session, to adopt or reject it.

But the members of the House were slow in reaching the capitol, a number, though in the city, refrained from appearing in their seats, when in doing so their presence would bring about a quorum. The verbal orders to the doorkeeper to go out and bring in absentees were ineffectual, as the absent members eluded his search. This conduct of members exasperated the Governor, who, July 14th, applied to General *Thomas, the* military commander of this department, for *assistance to* compel the refractory legislators to perform their

uty. General Thomas referred this request to General Grant, at Washington. Secretary of War, Edwin M. Stanton, eplied, July 17th, "The duty of the United States forces is ıot to interfere in any way in the controversy between the political authorities of the state, and General Thomas will strictly refrain from any interference between them."

Two members, Pleasant Williams, of Carter County, and A. J. Martin, of Jackson County, were in the city and about the capitol, but refused to participate in the proceedings, or to answer to their names on roll-call for the purpose of making a quorum, upon the ground that they were elected before this subject was presented, and they were unable to represent the will of their constituents without an opportunity of consulting them, which they had not had. Warrants were issued for their arrest, and to be "brought before the bar of the House to answer for disorderly conduct and for contempt." They left the city and were pursued to their homes, taken into custody, and brought to the House—Williams on the 16th and Martin on the 17th. They still adhered to their position. Williams applied for and obtained a writ of *habeas corpus*, returnable before the Judge of the Criminal Court, Hon. Thomas N. Frazier, who, upon hearing the case, discharged the prisoner from arrest. In the meantime, on the 19th, and before the discharge of Williams, the Sergeant-at-Arms still holding the two members in custody within one of the committee rooms, communicating with the hall of the House, the roll was called and the vote taken, resulting in forty-three affirmative and eleven negative votes, Williams and Martin still failing and refusing to speak or to vote. The Speaker ruled, under this state of facts, that there was no quorum. An appeal was taken from the ruling, and the appeal was sustained. The Senate having adopted the amendment on the 11th, this ended the struggle at the capitol over the matter of a quorum, and was accepted as the ratification of the Fourteenth Amendment by Tennessee.

Upon his discharge, Williams brought suit for damages in the Circuit Court of Davidson County, against each of the members *who had contributed* to his arrest, and when trying to *serve the process the* Sheriff was ordered from the Hall.

The House preferred articles of impeachment against Judge Frazier for high crimes, misdemeanors and malfeasence in office for his action in the *habeas corpus* case. He was tried by the Senate as a Court of Impeachment commencing on the 6th of May, 1867, convicted on the 12th of June and by the judgment of the Court, deposed from his office and forever disqualified from holding any office of profit or trust in the state. Judge Frazier was a refugee to Nashville from East Tennessee, and was appointed Judge of the Criminal Court of Davidson county by the Military Governor, Andrew Johnson. He was a conscientious citizen, a good lawyer, and an upright judge. A Constitutional convention which was held in 1870, removed the pains and disabilities under which he labored from this judgment. He was subsequently elected by a popular vote to the seat from which he had been deposed in the heat of partisan passion, and served ably and acceptably for the full term of eight year.

The adoption by the Legislature after this fashion of the 14th amendment was at once communicated to Congress, and had the long wished for effect of causing the admission of the Senators and Representatives from Tennessee. On the 24th of July, the Governor was notified by telegraph that the entire delegation, on that day were admitted to their seats. The rejoicing at this event by the Radical majority at the state capitol was as enthusiastic as it was sincere. It had cost them much in the way of yielding their long cherished views of the rights and status of the negro. It had drawn them from the conservative lines, held by the man who had created and imbued them with life and power, and carried them into the violent arms of the Radical reconstructionists in Congress, who then looked with complacency on the elevation of the negro to political superiority and to civil and social equality over and with the white people of the South. It had also afforded the President an opportunity in approving the joint resolution which admitted the Senators and Representatives, to expose the fallacious pretensions of the majority in Congress. He said in his message returning it: "Notwithstanding its *anomalous* character I have affixed my signature thereto. My ---ver, is not to be construed as an acknowledg-

nent of the right of Congress to pass laws preliminary to the admission of duly qualified Representatives from any of the states. If the ratification of the Fourteenth Amendment to the Constitution of the United States be one of the conditions of admitting Tennessee, and if, as is also declared by the preamble, said state government can only be restored to its former political relations to the Union by the consent of the law-making power of the United States, it would really seem to follow, that the joint resolution which at this late day has received the sanction of Congress, should have been passed, approved and placed on the statute book, before any amendment to the Constitution was submitted to the state of Tennessee, for ratification. Otherwise the inference is plainly deducible that while in the opinion of Congress, the people of a state may be too disloyal to be entitled to representation, they may, nevertheless, have an equally potent voice with other states in amending the Constitution, upon which so eminently depends the stability, prosperity and very existence of the nation."

In his first message, in April, 1865, Gov. Brownlow, had said that he was satisfied from long experience in the South it was "impossible for the negroes and the whites to live together as social or political equals," and that all legislation concerning the negro should look forward to a peaceful separation of the two races, but no sort of conviction or principle could resist the force of hatred to "disloyalists and traitors" and the fascinations of office. To these he yielded everything.

This same Legislature,—that elected in March, 1865, on the plan of the "general ticket," – again assembled on the 2d of November, 1866. One of the earliest acts of this session provided, "In all trials in civil or criminal cases . . . it shall be a good ground of challenge as to competency of any juror, that such juror is not a qualified voter in this state." To be a juror under this law implied that a man must take the oath prescribed. Thus the non-voter could not enter the temple of justice as a part of the judicial machinery. The judges at this time were almost, if not entirely, *appointees of Governor* Johnson or Governor Brownlow,

and it was thus that the large majority of Tennesseeans were to be further degraded by hostile legislation.

There was one other step to take on the subject of the Elective Franchise. This act bears date February 25, 1867, and is entitled "An Act to alter and amend the Act of May 3d, 1866." It admits the negro to the rights of the ballot-box, and makes the exclusion of "rebels and rebel sympathizers" still more rigid. The oath prescribed to be taken is relieved of some of the former's redundancy, is neater, and is to be in addition to the evidence of two witnesses. It is as follows:

"I do most solemnly swear that I have never voluntarily borne arms against the Government of the United States for the purpose of, or with the intention of, aiding the late rebellion, nor have I, with any such intention, at any time, given aid, comfort, counsel or encouragement to said rebellion, or of any act of hostility to the Government of the United States. I further swear, that I have never sought or accepted any office, either civil or military, or attempted to exercise the functions of any office, either civil or military, under the authority or pretended authority of the so-called Confederate States of America, or of any insurrectionary state hostile or opposed to the authority of the United States Government, with intent and desire to aid said rebellion, and that I have never given a voluntary support to any such government or authority."

Any one taking this oath falsely is declared guilty of perjury. Without the certificate of the Registration Commissioners he is to vote at any election held under the laws of this state. All certificates issued by County Court clerks under the Act of June 5, 1865, are held null and void, and shall not be used in any future election. All candidates for any official position shall take the above oath. Each commissioner is to report to the Governor when he has completed his registration. When the Governor has received these reports from the entire state, he shall order elections to *fill all the vacant* offices in the state, county, circuit or district. *The judges* and clerks of elections shall be selected *and appointed by* the commissioners, instead of by the sheriffs

Provision is also made for holding elections in the United States Army, where there are Tennessee soldiers.

The strength of this amended law lies mainly in placing the machinery of elections more completely under the control of the Governor. It was still further strengthened by an Act passed March 8th, 1867. Section three of this law annuls the registration of Davidson County, made under the Act of May 3, 1866. Section four confers upon the Governor the power to set aside and annul the registration in any county where he is satisfied there has been fraud or irregularity in the registration. Section five makes it a misdemeanor to vote or attempt to vote on a certificate thus declared null and void, punishable by fine of not less than ten nor more than one hundred dollars. This legislation placed it in the power of the Governor to elect whom he chose.

As a voter the negro was safe. Fortunately for him, he had a great number of friends from the North, who followed the Federal army and hung on its bounty until the army disappeared. This was particularly the case about the large cities. To fix the negro in the right line was suited to their genius and inclination. They were not long in finding out the love of the race for the mysterious and marvelous, and their proclivity for joining secret societies. They organized the Union League of America, and boasting that they were the friendly liberators of the negro, they soon had four-fifths or more of the newly-enfranchised voters in their leagues, bound, as was generally understood, by an oath to vote the Republican ticket at all elections and for all purposes during their natural lives. They were taught at their meetings about the despicable character of the rebels and late slave-owners. In this way the negro soon became a fully qualified Republican voter. Most of them could conscientiously take the franchise oath, and those who could not—well, they took it, nevertheless.

The next step was the organization and equipment of an army. The reply of the Secretary of War on the 17th of July, 1866, pending the ratification of the Fourteenth Amendment, was not precisely what was expected. Nor were th

"County Guards," under the sheriffs displaying great strength and activity as a military force. On February 20, 1867, a bill to reorganize and equip a State Guard became a law. It simply authorized the Governor to organize, equip and call into active service a volunteer force, to be composed of one or more regiments from each Congressional district, to be known as the "Tennessee State Guards," and to be composed of loyal men "who shall take and subscribe the oath prescribed in the Franchise Act." "Any number of the force shall be subject to the order of the Governor, who shall be commander-in-chief, whenever, in his opinion, the safety of life, property, liberty or the faithfulexecution of law requires it to be organized, armed, equipped, regulated and governed by the Rules and Articles of War and the revised Army Regulations of the United States, as far as applicable; and shall receive pay and allowance according to grade and rank, as provided for in the United States Army, while in active service, to be paid out of any money in the state treasury not otherwise appropriated." Thus was *carte blanche* given to the Governor. The day after the passage of this law a joint resolution was adopted instructing "our Senators and requesting our Representatives in Congress to use their efforts to secure the quota of arms from the General Government to which the state of Tennessee is entitled by law; also to secure one of the forts in the vicinity of Nashville as an arsenal for the depository of the aforesaid arms." Before adjournment, *sine die*, a joint resolution was adopted requesting the Governor "to apply to the United States, through General Thomas, the commander of the department, for a sufficient force of United States soldiers to keep the peace and restore order and quiet in our state." The request was duly made on March 1st, the day of the adoption of the resolution. General Thomas, whose headquarters were at Louisville, replied, on the 7th of March, that Tennessee had been declared by proclamation of the President to be no longer in rebellion; that United States troops could *be used only in aid* of the civil authority, and could not *assume control of* citizens by virtue of military orders; that *troops would be so* furnished on application; and that the na-

ture of the disorder requiring the force should be stated, and the authorities to whom they were to report be particularly designated, when the application was made.

All this preparation with a view to the elections to take place on the 1st day of August, for Governor, a new Legislature entire, and a new delegation to Congress. The Tennessee "radicals" had already taken sides with the extremists in Congress, and against the administration in their continued struggle. A number of the leading men refusing to go to the extremes of their fellow Unionists, had organized a conservative Union party, composed of those who remained "loyal" throughout the war, but deprecated the persecution of their fellow-citizens who went with the South. The radicals calling themselves Republicans, held their nominating Gubernatorial Convention at Nashville, on the 22d of February 1867, two days after the passage of the law conferring the right of suffrage upon the negro. This convention nominated by acclamation Wm. G. Brownlow for re-election. Their resolutions among other things endorsed the course of the radical majority in Congress; endorsed the administration of Governor Brownlow, and the convention declared itself "ashamed of the unprincipled adopted son of Tennessee now President of the United States for his deception and degeneracy, and will endorse any action of Congress that will legitimately deprive him of continued power."

In responding to the resolutions, the Governor with a modesty truly surprising, said that though contrary to his wishes he accepted the re-nomination.

At the adjournment of the Legislature twenty-four of its members opposed to the extreme course of the large majority, united in a call for a Conservative Union State Convention, to be held at Nashville, on the 16th of April. This convention met and adopted resolutions declaring their adherence to the Union under the Constitution; their desire for peace and civil law, and legislation giving equal and exact justice to all, exclusive privileges to none, in favor of the immediate restoration of their disfranchised fellow-citizens to all the rights, privileges and immunities of full and complete citizenship; recognizing in full the rights of the "color

fellow-citizen;" opposing the repudiation of the national debt; denouncing the establishment of a large army in a state in time of peace as a flagrant and dangerous encroachment upon the rights and liberties of the citizen, heavily oppressive to the tax-payer, and evidently designed to overawe voters at the ballot-box; and cordially approving the efforts of the President in defending the Constitution, preserving the Union, and maintaining the supremacy of the laws. This assemblage nominated Hon. Emerson Etheridge for Governor.

The Conservative and Radical negroes, moved by the white influences by which they were respectively swayed, both held conventions at Nashville; the one declaring for "the true Union Conservatives of Tennessee," the other for the Republicans, and Brownlow for Governor. The former movement amounted to little or nothing, the "Leagues" having already not alone established the party relations of the negro, but fastened them with an oath, administered with all the awful impressiveness of semi-darkness and mysterious ceremonials. In the beginning of the year 1867, the physical condition of Tennessee was good. The preceding year had passed off in comparative quiet. The waste and desolation of war were rapidly disappearing. The crops of two years; the industrious replacing of destroyed fences; the repair and renewal of farm machinery; the care and multiplication of farm animals, had altogether changed the face of the state from what it was two years before; and exhibited a power of recuperation only possible to a generous soil and an industrious population.

The reasons for the Governor's congratulations on the peaceful condition of public affairs in July, 1866, had continued. There was no occasion, therefore, for the additional franchise legislation by the last session of the Legislature, nor for the law authorizing a standing army at this time. There had not been a "rebel" of respectable position at home, no matter what his rank or want of rank in the army, nor a "rebel aider, sympathizer or abettor" of standing as an honorable *man in his community* or neighborhood, who had in these two *years either by himself* or by combination with others, in any *way undertaken to* overthrow the existing state government;

or in any way obstruct its orderly administration. There were local acts of violence in various parts of the state, as they now occur in this and all other states. The allegations of such a state of disorder as to justify the organization of a military force were without justification. The County Guard law in the hands of the sheriffs, was amply sufficient to preserve order in all parts of the state. But for other purposes than the public welfare, these measures were devised and enacted into law.

The majority of the people, that portion against whom all this persecution was leveled, had borne it, if not in silence, in patience. They were deprived of the ballot, by law, and bowed in obedience to that law, however unjust and galling it appeared to them. They had taken no conspicuous part in public affairs; were not active in public political conventions to make nominations; but demeaned themselves as a class having no political power, with a reserve and moderation, which, under the circumstances, must go on record as remarkable. But it cannot be said that these people, most of them born on the soil of Tennessee, and all of them identified with it by the attachments of association, family and home, were too dull to comprehend the full extent of the wrong and injustice imposed upon them, or too craven to express their sense of them in temperate speech on proper occasions. They could not be blind to the fact that their good faith and law-abiding conduct, instead of improving their political condition, in each succeeding year, increased the severity of their exclusion from a voice in public affairs. Their property was taxed to pay the instruments of their oppression, and they were denied any voice whatever in the matter. A manly and open expression of their feelings at the gross wrong was neither discreditable to themselves nor seditious nor rebellious toward the State. The statutes were full of laws for the adequate punishment of every crime or misdemeanor involved in the charges made by the Governor, and made the ground for all this military preparation.

The *Governor began* at once to organize the State Guards *under the Act of* February 20th. The canvass for Governo *was to open some time* in May, and according to a Tennes

custom almost immemorial, would involve a joint canvass of the state and discussion of the issues by the opposing candidates. The chief duties of the Guards would be to appear in military array at various places of public speaking, under pretense of protecting the Republicans from "rebel" assaults, and in the freedom of speech. On the 6th of March, Wm. G. Brownlow, now acting as Governor, candidate for re-election and Commander-in-Chief of the Tennessee State Guards, began work by issuing Order No. 1. This order called for the enlistment of troops to serve for a period of three years, unless sooner discharged. To effect this enlistment he commissioned certain persons as captains, and authorized each of them to enlist one hundred able-bodied men, who, when enrolled, should elect their other officers, who were to be commissioned when the captain should certify the same. Twenty-five of each company were to be mounted to act as scouts, etc. Every officer and private was to take an oath, set out in full in the order, before entering the service. Discipline was enjoined, and trespassing upon private property prohibited. Under these captains' commissions twelve companies were organized and the command of the force turned over to General Jos. A. Cooper in a subsequent order, in which the Commander-in-Chief is pleased to say, that, "while he has no difficulty in raising companies, there will not be called into active service more than twelve or fourteen companies, all told, unless the rebellious conduct of the people make it necessary to increase the force." "The length of time this force will be continued in the service," he said, "will depend altogether on the conduct of the people."

General Cooper was one of the defeated candidates for Congress in 1865, in the Knoxville district, represented by Maynard. His ability was commensurate with the character and extent of his command, and the object to be obtained by his campaigns. The actual service of the troops consisted mainly in going from place to place in the state and showing themselves, the infantry traveling on railroads, and reaching *no other points* than they were thus enabled to reach; *while the horsemen* took care of interior seats of radical weakness.

Upon the whole, their conduct and bearing were quite as good as could, under the circumstances, be expected.

They were charged with unnecessarily shooting only a few citizens, and for these came in with pleas of full justification. They engaged in broils sometimes that did not lead to bloodshed. One of the notable triumphs of this heroic service was the riding a too free spoken citizen on a rail. It was alleged that they extended their jurisdiction to a case of domestic infelicity, and ordered a divorce from the bonds of matrimony. But the crimes committed by these licensed disturbers of the public-repose were not nearly so many or so flagrant as might have been expected.

Governor Brownlow was afflicted with a nervous disease, a kind of palsy, which prevented easy locomotion, and from this cause he was prevented from making a canvass of the state with his competitor. He, therefore, issued an address to the people, which he procured to be published in many of the most widely circulated papers in Tennessee. This address was a review of the events of the past two years, and a defense of his administration and of all the radical legislation by the General Assembly. Little or no attention was paid to state economies and the extravagant expenditure of the public moneys, and the issue of additional bonds was ignored.

In his canvass for Congress in 1865, Etheridge had expressed in strong terms a very decided opinion of the irregularities attending the inauguration of the State Government, and also concerning the authority of Mr. Lincoln to set the slaves free by a stroke of his pen. Indeed so pronounced were these opinions and their expression, that a squad of Federal soldiers was sent from the military post at Columbus, Ky., to arrest and convey him out of the state; thus relieving him from a continuance of his labors in the political harvest of that year. His nomination as the competitor of Governor Brownlow, was a step by "the enemy," which the Governor construed into a purpose to precipitate a conflict upon him, which would inevitably lead to scenes of turbulence and bloodshed. In this address he was particular to say he would allow the greatest freedom of speech, even to the severest criticism of himself and his public acts, a

those of his party friends; but he concluded in emphasized letters, "I do not consider it the duty of the State Guards to stand quietly by and hear men excite the mob spirit by denouncing the Federal and State Governments, counseling resistence to the courts and setting aside their decisions by mob violence."

This allusion to the decisions of the courts, referred to a decision of the Supreme Court of the state, delivered on the Third day of May declaring the constitutional validity of the Franchise Law of May 3, 1866, (Ridley. *vs.* Sherbrook, 3 Cold. 56, from Rutherford County.) Any violation of this law or that of February 25, 1867, amending it, by improper registration or voting would accordingly be "resistance to the courts and setting aside their decisions."

With this address and the registration machinery in his hands with power to correct any mistake, the Governor was content to remain at his home in Knoxville, where he had retired after the final adjournment of the Legislature, until his duties again called him to the Capital.

The election passed off throughout the state without notable disturbances anywhere. Brownlow received 74,484 votes, Etheridge 22,548; total, 97,032; majority for Browlow, 51,936. The Senate was unanimously radical, and the House contained but a half dozen Conservatives, with 12 of the Senators and 28 Representatives that were members of the last General Assembly. The entire Congressional delegation was radical, as follows: R. R. Butler, Horace Maynard, Wm. B. Stokes, James Mullins, Jno. Trimble, Sam'l M. Arnell, Isaac R. Hawkins and David A. Nunn. There was now certainly no cause for further apprehension or distrust, nor further want of assurance of power on the part of the radical administration.

In 1867, one Alden who had drifted to Nashville in times of commotion, and become Commissioner of Registration, *had himself, by the* aid of Governor Brownlow's militia, *elected to the Mayoralty,* his opponent withdrawing from the *contest under protest.*

The Mayor, of course, brought with him to the city ad

ministration a council that could be relied on to carry out his wishes and plans, and the chief offices were filled by men of his own type—strangers to the people and utterly indifferent to their interest or welfare. This band of freebooters seized the treasury with an avidity difficult to describe, and used it with a greed, only to be compared to hungry hogs at a flowing swill. No old resident was allowed to fill any position which involved the handling of money in important sums.

Public taxes were collected, but their amount was no guide to the expenditures. These were on a scale of magnificent liberality. The Mayor and the cabal of official friends he had gathered around him, soon came to be designated by the public as the "Alden Ring," whose style of living became suddenly grand and imposing. When the treasury was not supplied with currency by the tax-payers, checks were drawn in the name, often, of fictitious persons, payable to bearer, and sold to the street shaver of notes for any price they would bring. These checks were issued, in many cases, without consideration. As they multiplied, and the likelihood of payment decreased, the market quotations for them declined. Bonds were also issued, and when checks did not serve, bonds were substituted.

The extent of the peculation and inexcusable waste of the public money during the year-and-three-quarters they held sway, will never be fully or accurately known. The present Recorder (1890) estimates the amount still unpaid and ascribable to the "ring administration" consumption and waste, at $700,000.

The second election of Alden, 1868, was scarcely to be called an expression of popular will. He selected the members of both branches of the Council; and his second year became more intolerable than the first. It was cumulative in its oppressiveness, and a helpless public foresaw a catastrophe when the day of reckoning should come. A Taxpayers' Association was organized, and methods and measures of relief discussed in their meetings. Halls were secured and people were invited to hear speeches by able and fearless men, exposing the enormity of the situation; and the city was so

in a glowing heat of indignation. Finally, application was made to the Chancery Court, at Nashville, on grounds deemed tenable, for relief. That tribunal interposed by suspending the functions of the Mayor and placing the general management of affairs in the hands of a Receiver, about the first of July, 1869. John M. Bass, a man universally known and esteemed, and eminently competent, was made Receiver.

Three months after this juridico-angelic visit, the "Alden ring" had dissolved. The cohesion of public plunder was sadly lacking. The members of that cabal of plunderers had packed their carpet-bags, shaken the plentiful dust of Nashville from their feet and departed for other fields of enterprise. At the succeeding election the administration fell into the hands of a merchant and leading business man, K. J. Morris, as Mayor, and a council containing the names of men whose faces were familiar in business walks, and whose character for integrity was established. The task of restoring affairs to order and regularity, was Herculean. The unauthorized checks, so far as known, were litigated; but at last the city was forced to pay every evidence of debt issued in its name by the "Alden ring," and the costs of litigation through the Courts of the state was money only thrown after that already gone. Such was the illustrated working of the "Franchise Machine" under favorable conditions.

The Legislature elected in August met on the 7th of October, 1867.

The power given by the last Legislature to annul registrations, and remove and appoint Commissioners, had been freely used both before and after the last election by the Governor, who in this way, as in 1865, revised the popular vote, and decided what registrations had been irregular or fraudulent. But the surreptitious manner of its passage, it having been sandwiched into a bill about homesteads, bills of costs, natural born children, etc., had excited so much criti-

cism that the present Assembly enacted a law, defining the *powers of the* Governor in all these matters, and confirming [redacted]ations of annulment, removals and appoint-

since the 8th of March, 1867, whethe

justified by the sections above referred to or not. This relieved the Governor from any hesitation in the free use of this power.

An act was also passed vesting in Commissioners of Registration the power to hold all elections, required to be held by sheriffs.

On the 31st of January, 1868, it was enacted, that thereafter "there shall be no disqualification for holding office, or sitting on juries, on account of race or color;" thus obliterating the last mark of the old fetters, and discharging obligations for partisan services. Another act was passed on the 12th of March, forbidding common carriers, railroads, steamboats, street railroads and all other common carriers to make any distinction in regard to color, race, or previous condition of any person or persons asking at their hands conveyance or any other service rendered by them.

In its wisdom the Legislature gave the Governor control of the legal advertising patronage of the state, authorizing him to designate in every Congressional District, such newspapers as in his judgment the public interest might require, in which all legal advertisements should be published. If no paper was designated in any county, then the notice should be published in the nearest county where there was a paper designated, the appointment of newspapers to be confirmed by the Senate.

Another safeguard thrown around the qualified voter, was a provision that "no person shall be allowed to make contracts with work hands or others in their employ, that will, or is intended to keep them from going to the polls on election days"—nor shall it be a violation of contract to leave work and go to elections.

An additional means of strengthening the arm of the Governor was an act passed February 1st, 1868, to amend the law authorizing County Guards to be raised by sheriffs. This new law provided that a sheriff, instead of being restricted to his own county in raising his force "may recruit said county *Guards by the employment* of any of the loyal citizens of this *state; that the County* Court shall not have power to disband *these Guards unless* the order for the same is endorsed by t

Judge and Attorney-General of the circuit in which the county may be situated; that the wages of these men shall be paid by the county on the certificate of the sheriff; that if the County Court fail or refuse to make sufficient appropriation, the sheriff shall notify the Governor of such failure, who shall send an assessor of his own appointing to levy and collect the necessary amount to pay said Guards, and to continue them three months longer, from the tax-payers of the county; and the assessor shall be allowed six dollars per day for his services, to be levied and collected as part of the expenses of the Guards; that the assessor shall have the powers of sheriff and assessor, have command of the Guards when deemed necessary, and shall levy upon real estate alone; that upon failure to sell property distrained by him for want of bidders, he may offer the property in any county in the state; that the proceedings of sale shall be returned to the Circuit Courts of the counties in which the land lies, and in which the sale is made, each of which shall enter judgments of condemnation; and the proceedings, if regular, shall be deemed valid and sufficient to convey title." The law further provides that the sheriff shall have, in addition to his other fees of office, the pay of captain of infantry, according to United States army regulations, and if he thinks proper to have as many as fifty men, he may have one deputy who shall be entitled to the pay of a lieutenant of infantry; that if any sheriff fails or refuses to make arrests of offenders, or is unable to provide himself with the necessary County Guards for the preservation of law and order, upon the certificate of such fact by the Judge and Attorney-General of the circuit in which the county is situated, or upon the affidavit of two known loyal citizens of the state, "it shall be the duty of the Governor, forthwith, by his executive order, to organize and establish a sufficient county police in such county to arrest offenders and preserve the peace," and for this purpose the powers are conferred on the members enumerated in a law establishing a Metropolitan Police District; that the authority *of the county police* shall be co-extensive with the county; *but they may pursue* and arrest offenders in any part of the *state: that they shall* be paid in the same manner as the

County Guards; that the Governor may increase or diminish the number of officers and members of such police at his discretion; that they shall serve all processes for the arrest of offenders; that this force may be disbanded by the concurrent order of the Governor and the presiding Judge and Attorney-General of the circuit. The law further provides "that the Governor shall have power in his discretion in cases of apprehended outbreak on public occasions, or of anticipated resistance to the laws by combination of large numbers of persons, to order the establishment of a Special County Police, to be commanded by such persons as he may appoint," and such force shall be paid as the County Guards.

By this and previous laws the Governor was panoplied with powers to call out the State Guards; to summon the County Guards, or the County Police at his discretion. The reasons for all these devices to uphold the authority of the Governor, and to enlarge his powers to the verge of autocratic, do not distinctly appear. The Governor was growing vain on account of his triumphs, and ambitious for further promotion. This continued noise and pantomime of war was probably an expedient to divert popular attention from other crimes against the public welfare.

The Legislature, during this session, elected Governor Brownlow to the United States Senate for the term commencing March 4, 1869. It also passed resolutions requesting then Representatives in Congress to vote for articles of impeachment against "acting President Andrew Johnson"; congratulating the country on the reinstatement of E. M. Stanton to the office of Secretary of War contrary to the President's wishes; demanding an additional member of Congress, on the ground of the addition of 40,000 enfranchised freedmen since the apportionment; and adjourned on the 16th of March to November 9, 1868.

During this interval a new source of irritation and trouble sprang up. On the 14th of June, Hon. Samuel M. Arnell, of Maury County, wrote Governor Brownlow that "the *Ku-klux searched the* train for me last night, pistols and rope *in hand.*" *The Governor* at once notified General Thomas *of Arnell's complaint,* saying that it was in keeping wit

what was going on in other parts of Middle and West Tennessee, and asking him to furnish a company of troops for Marshall and Lincoln jointly, and one each for the counties of Obion, Dyer and Gibson.

General Thomas replied that Tennessee was in full exercise of the functions of a state; that the military can only be used to aid and sustain the civil authorities; that he had already furnished him all the troops he could spare; and declined to send the companies requested. General Thomas afterwards gave it as his opinion that certain laws passed by the last Legislature gave the sheriffs of counties and the Governor of the state ample powers to cope with these disorders.

In this condition of affairs the Governor resorted to an extra session of the General Assembly. He never seemed so happy or so confident of spirit as when he had the representatives of the people around him at the state capitol. He summoned them to meet on the 27th of July. In his message he recounted in general terms the depredations of the Ku-klux Klan, and called upon the members to speak and vote as they themselves and their constituents had spoken in private letters and petitions calling for the militia to protect them in their persons and property. He said he had been applied to by prominent men of both political parties to urge the propriety of removing the political disabilities now imposed by law upon a large body of the people. This he declined to do saying: "They have a military organization in this state whose avowed object is to trample the laws under foot, and to force the party in power to enfranchise themselves and their sympathizers. I cannot yield to this request, accompanied with threats of violence. If members of the General Assembly are alarmed for their personal safety, and feel disposed to sue for peace upon the terms proposed by an armed mob, they will of course, take a different view of the subject. Any recommendation of this kind, if made at all, should be at a regular, and not a called meeting of your body. And whether such *recommendation* and corresponding action thereupon shall be *deemed wise at* your next adjourned meeting in Novemb*next, can then* be safely determined by strictly observing

conduct of these unreconstructed Ku-klux rebels and their sympathizing supporters, between this time and that."

As soon as the Legislature was ready for business, many petitions for the repeal of the franchise law were presented—one of them by Judge Shackleford, of the Supreme Court, signed by nearly 4,000 citizens. On the 1st of August, B. F. Cheatham, N. B. Forest, Wm. B. Bate, Jno. C. Brown, Jos. B. Palmer, Thomas B. Smith, Bushrod R. Johnson, Gideon J. Pillow, Wm. A. Quarles, S. R. Anderson, G. G. Dibrell, George Maney and Geo. W. Gordon, all military officers of high rank in the late Confederacy, met at the capitol and framed a memorial expressing deep solicitude for the peace and quiet of the state; protesting against the charge of hostility to the state government or a desire for its overthrow by revolutionary or lawless means; or that those who had been associated with them in the past days contemplate any such rashness or folly; nor did they believe there is in Tennessee any organization, public or secret, which has such a purpose; and if there be, they had neither sympathy nor affiliation therewith. They believed the peace of the state did not require a military organization; that such a measure might bring about and promote collisions, rather than conserve the harmony and good order of society; pledged themselves to maintain the order and peace of the state with whatever influence they possessed, to uphold and support the laws and aid the constituted authorities in their execution, trusting that a reciprocation of these sentiments will produce the enactment of such laws as will remove all irritating causes disturbing society. "For," they continued, "when it is remembered that the large mass of white men in Tennessee are denied the right to vote or to hold office, it is not wonderful or unnatural there should exist more or less dissatisfaction among them. And we beg leave respectfully to submit to your consideration that prompt and efficient action on the part of the proper authorities, for the removal of the political disabilities resting upon so many of our people, would heal all the wounds of our *state, and make us once* more a prosperous, contented and *united people."*

While these petitions were still before the Assembly, Gov

ernor Brownlow sent in a special message, accompanied by a letter and draft of an "ordinance," from Judge John M. Lea, which he was induced, by his high regard for the author and his confidence in his patriotism and integrity, to submit to their deliberate consideration. The letter called upon the Governor and the Legislature to complete the reconstruction in Tennessee on the plan set forth in the proposed ordinance. This ordinance recited the general disfranchisement, and disposition of the people of the state to acquiesce in the results which have been brought about by the late civil war, and recommended to the people, in the name of the General Assembly, an amendment to the State Constitution, conferring the right of suffrage upon "every free man, white or colored, of the age of twenty-one years, being a citizen of the United States, and a citizen of the county wherein he may offer his vote six months next preceding the day of election." The ordinance provided that this amendment should be submitted to a vote of the people at the next state election, and that every voter in favor of its adoption, should write or print on his ticket the word "convention," and that he elects and appoints as delegates to said convention the members of the present General Assembly." If a majority of the people vote "convention," it implied they favored this amendment, and the General Assembly, thus constituted a constitutional convention for the purpose, was to incorporate it into the organic law of the state without further action on the part of the people. A debate followed which developed decided opposition to entertaining the subject at this session, and the whole matter was laid on the table.

While the Legislature was in session, and before final action had been taken on the matters under consideration, a convention of extreme radicals was held at Nashville, which passed a series of resolutions, endorsing the course of Governor Brownlow, especially in calling the present extra session for the purpose of "protecting defenseless loyal men from the wanton violence of Ku-klux banditti and others, aided and *encouraged by* wealthy rebels;" opposing the repeal of the *franchise law;* calling upon the Legislature to pass an *efficient military bill* that will enable the Governor to meet an

emergency, and declaring that wherever the military was required its costs should, if found practicable, be borne by the tax-payers of the county.

Pending the consideration of the military bill, petitions against its passage were presented from all quarters. The Senate and House disagreed on the measure proposed by the Military Committee, the result being the reënactment of the law of 1867, with amendments. The Governor was authorized to organize, equip and call into active service a volunteer force to be composed of loyal men, who should take and subscribe an oath to support the Constitution of the United States and of this state, to be known as the "Tennessee State Guards." In addition to the provisions of former laws, this authorized the Governor to declare martial law in any county whenever the Judge and Attorney General of the district wherein the county lay, and the Senator and Representatives and ten Union men of good moral character shall represent that "the laws cannot be enforced, and the good citizens of that county or counties cannot be protected in their just rights, on account of rebellion or insurrection, or the opposition of the people to the enforcement of law and order;" he was authorized to quarter troops on such counties; and was made his duty to assess and collect a sufficient amount for the full payment of State Guards so employed out of such county or counties, in the manner provided in the Act of February 1st, 1868. It also required the Governor to furnish a number of troops necessary for the purpose, upon application and sworn statement of ten or more unconditional Union men of good moral character, or three Justices of the Peace in any county, that the civil laws cannot be enforced without the aid of the military authorities.

As a measure of further precaution, a committee of three was authorized by joint resolution to proceed to Washington and lay before the President the condition of affairs, and to "urge him to take steps to give protection to the law-abiding citizens of the state."

This committee set out at once, and presented an address to the President giving a statement of the operations of the Ku Klux Klan, which, it claimed, on the alleged authority

General Forrest, numbered forty thousand members in Tennessee alone, and urged upon him to send a sufficient Federal force to the state "to aid the civil authorities, to act with them in suppressing these wrongs and bringing the guilty parties to trial, giving assurance that all the laws will be enforced, crime punished, and protection extended to such officers and citizens as may attempt to execute laws or prosecute further violation." The committee returned with assurances from General Schofield, Secretary of War, that such dispositions would be made as to meet the emergency, and that the power of the United States would be employed "wherever and so far as it may be necessary to protect the Civil Government of Tennessee against lawless violence and to enable the Government to execute the laws of that state and protect its law-abiding citizens."

Before adjournment a law to preserve the public peace was framed and passed. It denounces a fine of not less than $500, imprisonment in the penitentiary not less than five years, and renders infamous any person who shall unite with, associate with, promote or encourage any secret organization of persons who shall prowl through the country or towns of this state, by day or night, disguised or otherwise, for the purpose of disturbing the peace, or alarming the peaceable citizens of any portion of the state; the same upon a person summoned as a witness, who fails or refuses to obey the summons, or shall appear and refuse to testify; the same upon any prosecuting attorney who has been informed of a violation of this Act, and fails or refuses to prosecute the person informed on, and in addition his name shall be stricken from the roll of attorneys; the same upon any officer, clerk, sheriff or constable who fails or refuses to perform any of the duties imposed by this Act; the same upon any officer or other person who shall inform any other person that he or she is to be summoned as a witness, with the intent of defeating any of the provisions of this or any other criminal law of this state; the same upon any one who shall write, publish, advise, entreat privately or publicly any individual *or class of persons* to resist any of the laws of the state; the *same upon any* person who shall make threats with the *intention of intimidating* or preventing any elector or person

authorized to exercise the elective franchise; the same upon any one who shall attempt to break up any election in this state; the same upon any one who shall feed, lodge or entertain or conceal in the woods or elsewhere, any one known to such person to be charged with any offence under this Act. The law further provides, that no prosecutor shall be required on indictments, and no indictment held insufficient for want of form under this Act; that where any sheriff or other officer shall return process issued under this Act, unexecuted, with an affidavit stating the reason for the non-execution, an alias shall issue and the officer shall give notice to the inhabitants of the county, of such alias, by posting a notice at the court-house door, and if the inhabitants shall permit the defendant to be or live in the county without arrest, they shall be subject to an assessment of not less than $500 nor more than $5,000; that all the inhabitants of this state shall be authorized to arrest offenders under this Act, without process; that this Act shall act as a lien upon all the property of the defendant for fines, costs or penalties imposed, dating from the day or night of the commission of the offence; that every public officer, in addition to the oath prescribed by the Constitution, shall swear that he has never been a member of the organization known as the Ku-klux Klan, or other disguised body of men contrary to law, and that it shall be unlawful for any person to publish any proffered or pretended order of such secret or unlawful clans. The measure of damages is fixed as follows: For entering the house or place of residence of any officer in the night in a hostile manner, or against his will $10,000, and it shall be lawful for the assailed to kill the assailant; for killing any peaceable individual in the night, $20,000; all other injuries to be assessed in proportion.

On the 16th of September, Governor Brownlow issued a proclamation against the Ku-klux Klan, recounting the action which had been taken by the Legislature, and calling upon the good, loyal and patriotic people, white and colored, in every county in the state, without delay, to raise companies of *loyal and able-bodied* men and report to him at Nashville, *declaring his purpose to* use the force so collected in putting *own armed marauders,* and in such manner as the exigenc

demanded, whatever might be the consequences. This Ku-klux Klan, it is proper to observe, was a mysterious organization that wore grotesque disguises; that paraded at night; and that seemed to have neither starting-point nor destination. It appeared unexpectedly and disappeared suddenly. It never entered in its paraphernalia the larger cities or centre, of population. Its movements were entirely on horsebacks the horses often with muffled feet, and with trappings sufficient to conceal their identity on a casual view. Their numbers were indefinite. Sometimes many would appear together, at others, few. No one was found to confess that he knew who they were, whence they came, or whither they went.

Sixteen years after this, in 1884, a history of the Ku-klux Klan was published in Nashville, in which the fact is disclosed that it originated with a coterie of young men in Pulaski, Giles County, this state, in May, 1866, and was designed by them wholly and purely for amusement; that the amusing features of the initiation were so decided, the membership increased so rapidly, that by 1868 it had spread from Virginia to Texas, and its original design had been greatly perverted; that its chief officer had lost control of its members or their actions; that it never was in any sense a military organization, as alleged by Governor Brownlow; that it claimed that many of the crimes and outrages committed in its name, were those of parties who used their disguises to gratify personal spites, and so avenge private griefs, and that it disbanded in March, 1869.

The excitement usually incident to a Presidential election did not tend to allay the feeling engendered by the constant and long-continued course of political ostracism towards a majority of the people of Tennessee, who were at the same time supporting, by their toil, the tax exactions of the oppressor. The election passed off with as little disorder as the circumstances reasonably permitted. The total vote polled *was* 83,068—Grant, 56,757; Seymour, 26,311—a falling off *of 13,964 from the* popular vote in the Gubernatorial election *in 1867.*

The Legislature met again in adjourned session, on the 9t

of November, 1868. The Governor in his message in reference to the State Guards, said, that soon after the return of the Legislative committee from Washington, General Thomas had inquired in what localities troops were needed; that he had furnished the names of twenty-two counties, and Federal troops in sufficient number had been sent to them. Hence the State Guards had not been called into active service.

The most important measure considered and passed, was an Act on the 23rd of February, 1869, requiring commissioners of registration in the various counties throughout the state, on the fourth Thursday in May, 1869, to open and hold elections in their respective counties for Judges of the various courts of the state, and for Attorneys-General in all the Circuit and Criminal Districts. This was the first step towards restoring the Judiciary to its former status.

The Governor's proclamation of September the 16th, calling on the able-bodied, loyal men to join military companies, had not met ready response. He followed it with another on the 20th of January, 1869, again calling "upon all good and loyal citizens to enter the ranks of the State Guards, be mustered into service, and aid in supressing lawlessness." This had a better effect. On the 25th of January, Brigadier General Joseph A. Cooper issued "General Order No. 1," dated at Nashville, assuming command of all the Tennessee State forces in the field. On the 20th of February the Governor issued his last proclamation, in which he stated that there were then 1,600 State Guards in Nashville; proclaimed martial law (the effect of which he declared was to set aside civil law, and turn the offenders over to the military, who would try them, and upon their conviction, dispose of them in a summary manner) in, and over the counties of Overton, Jackson, Maury, Giles, Marshall, Lawrence, Gibson, Madison and Haywood; and directed General Cooper "to distribute these troops at once, and continue them in service until we have unmistakable evidence of the purpose of all parties to *keep the peace.*"

Governor Brownlow, having been elected to the United *States Senate for the* term commencing March 4, 1869,

the 25th of February, retired from the executive office, and the Speaker of the Senate, D. W. C. Senter, of Grainger County, was duly inaugurated. The Legislature itself adjourned *sine die* on the 11th of March.

But, for reckless extravagance, for indifference to the object and extent of expenditures, the Thirty-fourth General Assembly elected by general ticket, February 22, 1865, and holding until October, 1867, stands without a peer. Assuming the half currently reported and generally believed to be true, the majority of its members were looked upon as knowing nothing and caring less for the financial condition or necessities of the state, and many were regarded as directly approachable corruptly for their support of measures. The state's aid, in bonds, to railroads and turnpikes, was upon a scale of liberality unheard of. All that seemed to be required was the presentation of a measure or bill, and it would go through without regard to its purpose or merit. The lobbies of the Capitol swarmed with persons who were employed to secure legislation, by presenting pecuniary arguments to members.

Before the close of the last of the four sessions of this Assembly, a moral stench seemed to rise from the state Capitol. Many of the well disposed persons elected on the general ticket, who were present in April, 1865, failed to answer to roll-call on the 11th of March, 1867. Of this class there were twelve Senators and thirty-two Representatives, whose places were filled by less worthy men. The first elected Comptroller (Hackett) seemed to be entirely incompetent and inefficient. Until about the beginning of 1866, all business of the state was transacted with a looseness and a general lack of attention to systematic methods, that could not fail of disastrous results. When a new Comptroller of sense and integrity was found, he was hampered by the financial legislation, which, against his remonstrances, continued to overwhelm the treasury with burdensome appropriations *and increasing* bonded obligations until December 7, 1867, *when it culminated* in numbers of grants to railroads, known *as the "Omnibus* Bill." They were equally unfortunate in *of a* treasurer (Stanford). His depositary c

of the school fund, a bank in Memphis, controlled by a named Rutter, inflicted a loss of above a hundred sand dollars. The penitentiary became a prey for private it at the expense of the state. The warden, a carpet- ger, (J. S. Hull) was suspended by legislative resolution, corruption in office, and a month later was allowed to re- An Act was passed on the 12th of May, 1866, to the state prison and the labor of the convicts. The les- threw up the contract and the institution continued a upon the treasury. Many railroads, aided by the state, ulted in payment of interest, and were placed in the ls of receivers, who instead of running them so as to pay ent expenses and fixed charges, were as far as previous agements from relieving past obligations. Every interest he state was suffering either through incompetent or dis- st agencies. The Thirty-fourth General Assembly man- ed supreme indifference to everything touching the state ices. The increase of their own *per diem* and mileage forty ent. above their constitutional allowance, was made with- hesitation. Their expenses during their service, with ting bills added, amounted to $421,496.88. Its successor, Thirty-fifth General Assembly for legislative expenses, ding bills for printing, is charged with $338,508.37 from treasury,—the two "Brownlow Legislatures" aggregating 'Legislative expenditures" $760,005.25. During the period, from April, 1865, to October, 1867, the Governor a staff about him, which, together with the Adjutant eral's office, cost the state $31,878.62.

he total expense of the "Tennessee State Guards"—a tary force wantonly authorized to be enlisted, and need- y called into active service—was the sum of $668,650.33. n evidence that these "troops of horse and foot" were ecessary at the first call in 1867, it need only be stated $175,284.83 were paid out for state prosecutions that ; and for the next year, $160,681.37. These facts expose falsity of *the allegations* of turbulence and disorder in *nce of the courts*, which served as a pretext for outrages, *ned for entirely* different ends than for those claimed. *why detail these* items of extravagance? It can be

well understood by saying that, during this four and a half years $9,024,183.70 passed from the people into the treasury, and only $28,649.42 remained as cash balance September 30, 1869; and against this small sum were $297,815.71 warrants on the treasury outstanding and unpaid,—a deficit of $269,166.29,—or a total expenditure of $9,293,349.99; thus showing the amount expended under this reign to be more than double that expended in the same length of time preceding or subsequent.

Besides this expenditure of current revenues from taxation, during the carnival of extravagance, an additional bonded debt was created in aid of railroads and turnpikes, and funded interest, mostly on their account, of $16,565,046.60. It is part of the financial history of Tennessee that many of these 6 per cent. bonds were sold for ruinous prices varying from seventeen to forty cents on the dollar, and for greenbacks, then greatly below par.

As may well be conceived, the Legislature which commenced its session in October 1869 received a legacy of debt which worried the people and its successors for thirteen years before it was settled on a permanent basis.

Once rid of Brownlow's presence, and that Legislature not to assemble again, unless on special call of the Governor, the prospect was more cheerful.

A Governor and Legislature to be elected in August, began early to occupy public attention. The Republican nominating convention was called for the 20th of May. The leading aspirants for the nomination, were Gov. Senter, the incumbent, and Col. Wm. B. Stokes, the gentleman who acted as substitute from Brownlow in the canvass with Ethridge in 1867. When the convention assembled in the state capitol, it was a heterogeneous mass; a considerable number of negroes, who were quick to assert their political rights, and a discordant contingent of whites whose cross purposes and diverse aims were unconcealed. The contest was doubtful. The friends of each of the aspirants tried to control the organization. On this contest, the convention was irreconcilable, and split into two parts. Each fraction of the convention met in separate places, and each nominated its favorite. Both

Senter and Stokes were thus made Republican candidates for Governor. No one was put forward by any other party. The difference between them consisted of an issue on the franchise question. Gov. Senter declared that "the time has come and is now, when the limitations and disabilities which have found their way into our statute books, as the result of the war should be abolished and removed, and the privilege of the elective franchise restored, and extended so as to embrace the mass of the adult population of the state."

Col. Stokes thus defined his position: "When the killing of Union men ceases, the hellish organization of Ku-Klux is disbanded, and the laws are observed, then I am willing to entertain a proposition to amend the state constitution so far as to allow the disfranchised to come in gradually, by providing that the Legislature may, by a two-thirds vote remove the disabilities of those who petition and come well recommended by their loyal neighbors." This was the principal issue from Carter to Shelby. To the people the candidates appeared as "Hyperion to Satyr."

On the 5th of August the ballots showed a total vote cast of 175,369; of which Gov. Senter received 120,333; Col. Stokes 55,036—majority 65, 297.

The surprising number of votes polled is accounted for largely by a decision of the Supreme Court in May, State *vs.* Staten, 6th Cold: 235, from Gibson County declaring unconstitutional the Acts of the Legislature authorizing the executive to set aside and annul registration of voters in which he might discover frauds and irregularities. This restored the franchise to a very large number of voters whose certificates had been annulled by Governor Brownlow.

The Legislature elected at the same time, containing some of the leading minds of the state, met on the 4th of October. A constitutional convention was called by popular vote, regularly authorized by law, and the delegates elected on the 18th of December, assembled on the 10th of Jauuary, 1870. The state was now truly "reconstructed." There was no *further disorder: The* troops were of no further service; and *he state entered upon* a career of peace and prosperity whic *as since been uninterrupted.*

IRA P. JONES

CHAPTER VIII.

RECONSTRUCTION IN VIRGINIA.

IT is fitting the story should begin where the original construction of the Old Dominion was first interfered with. Its first part embraces:

I.

DISMEMBERMENT. THE THREE VIRGINIAS.

RICHMOND. WHEELING. ALEXANDRIA.

Virginia suffered more than any other state during the war, because larger armies subsisted and contended upon her soil for longer periods, than upon the soil of any other state; and she suffered more from Reconstruction, because in its course her ancient domain was rent asunder, and she lost one-third of her territory. But the story of Virginia, at Richmond, being inside the Confederate lines, is outside the scope of this article, and we begin therefore with

VIRGINIA AT WHEELING.

Prior to 1861, various causes had conspired to develope, in certain counties of north-western Virginia, a public sentiment touching the issues between North and South, less strongly southern than the average sentiment of the State; and upon the passage of the ordinance of Secession by the Richmond convention, on the 17th of April of that year, many delegates from these counties returned home, and immediately began a vigorous campaign against Secession. Two conventions met in quick succession at Wheeling, the first of which, representing 26 counties, on May 13th, before the date fixed

for the popular vote upon the ordinance, denounced the secession proceedings of the Richmond convention as "manifest usurpations of power," "null and void," and called a second convention for June 11th.

Meanwhile the Federal government had promised its aid, General McClellan had crossed the Ohio with Union troops, and the series of his brilliant successes, which soon after drove the Confederate forces out of the region, had begun.

The convention of June 11th, representing at first 31 counties, afterwards received delegations from 8 others. It exacted from its members an oath to support the constitution and laws of the United States (omitting all mention of those of Virginia) "anything in the ordinance of the Richmond convention to the contrary notwithstanding." It annulled all the acts and proceedings of the Richmond government, and vacated the offices of all officers who adhered to it. On June 20th, in total disregard of the constitution of the state, this convention elected Francis H. Pierpoint, Governor, and filled other offices some of them not even authorized by that constitution. It declared the members of the Assembly chosen at the regular spring elections, and of course then destined for Richmond, and those elected to fill the places of such as would not take the required oath to support the government it had set up, to be the true and lawful Legislature of the state, and called it together at Wheeling on the first day of July. Upon the recommendation of the first Wheeling convention, the congressmen to which the three north-western districts were entitled had been elected in May, and on July 9th, this legislature elected two United States senators.

Both houses of Congress admitted these members, as from the "State of Virginia," and both the convention and the governor were distinct and emphatic in declaring that the entire movement was one for the restoration of the entire commonwealth to her place in the Union—that the true and lawful government of Virginia was at Wheeling and not at *Richmond—albeit the* Wheeling government then represented *but 39 out of the 140* counties, and 3 cities, of Virginia en*titled to representation*, and these 39 counties contained

282,000 out of the 1,600,000 inhabitants of the state.* All this in a free republic, based upon "the consent of the governed," and embodying "the rule of the majority"—there being at the time, in existence and in full operation, another government of Virginia, having its seat at the ancient capital of the commonwealth and supported by the overwhelming majority of her citizens.

It may have been due in part to such reflections as these, that there was a sudden shifting of the scenes. After a brief recess, this same convention, on the 20th of August, passed an ordinance providing for the formation of a new state to be called "Kanawha," out of the territory of Virginia, and embracing the very counties then represented in the Wheeling convention and legislature, and certain other counties, Berkeley and Jefferson among them, if they should vote to annex themselves to the new state.

Against this proposed action, Attorney-General Bates, the law officer of President Lincoln's cabinet, entered a vigorous protest embodied in a letter to a member of the Wheeling convention, saying, among other things: "The formation of a new state out of Western Virginia is an original, independent act of revolution. . . . Any attempt to carry it out involves a plain breach of both the constitutions of Virginia and of the nation. And hence it is plain that you cannot take such course without weakening, if not destroying, your claims upon the sympathy and support of the general government, and without disconcerting the plan already adopted both by Virginia and the general government, for the reorganization of the revolted states and the restoration of the integrity of the Union. . . . Your new governor formally demanded of the President the fulfillment of the constitutional guarantee in favor of Virginia—Virginia as known to our fathers and to us. The President admitted the obligation, and promised his best efforts to fulfill it. And the Senate admitted your senators, not as representing a new and nameless state, now for the first time heard of in history, but as *representing the* good old commonwealth."

*All statements as to population based upon the Census of 1860.

Notwithstanding this protest, the convention not only passed the ordinance in August, but the people in October ratified this action at the polls, and elected a convention to frame a constitution for the new state. This convention met in November and adjourned in February, putting its constitution to popular vote in April, 1862. At the latter date, 48 counties in all adhered to the new movement, their white population aggregating some 335,000, and yet there were not 20,000 votes cast at either election, that which created the new state in October, '61, or that which ratified its constitution in April, '62. Thousands of voters were presumably disfranchised by the oaths required, other thousands were in both armies, and others still refugees within the Confederate lines. Of course the overwhelming majority of the votes cast was in favor of both propositions, and the legislature, meeting in extra session on the 6th of May, on the 13th gave its consent, as the legislature of "Virginia," to the formation of the new state, making provisions also as the constitution had done, for the subsequent admission of Berkeley, Jefferson and other counties.

The bill for the admission of West Virginia passed the Senate of the United States in July, 1862, but there being some delay in the House of Representatives, the Wheeling Legislature, still as the Legislature of "Virginia," not only memorialized the House to pass the bill dismembering the Commonwealth and alienating part of her territory, but also requested the resignation of the Hon. John S. Carlisle, who, as senator from Virginia, had resisted the dismemberment of his native state.* On the 31st of December, 1862, the President signed the bill previously passed by both houses, requiring, however, an amendment to the constitution of the state, which was made; and on the 20th of April, 1863, he issued his proclamation that, at the expiration of sixty days, West Virginia would be one of the sovereign and co-equal states of the American Union. Although the constitution of the state required the election of state officers upon the fourth Thursday in October, yet, upon the fourth Thursday in May, the Union (or Republican) state ticket previously

* *Virginia Acts of Assembly*, 1861–1865, Wheeling.

nominated was elected without opposition, and, upon the 20th day of June, 1863, the very day her statehood and position in the Union became complete, the government of West Virginia was formally inaugurated.

One of the most remarkable features of this strange story is the complacency with which conventions, legislatures and governors, purporting to represent the commonwealth of Virginia, proposed and consented to repeated partitions and transfers of her territory—one sovereignty acting for every party and interest concerned in the transaction—in turn promoter of the scheme, donor of the territory, and recipient also, Wheeling Virginia, being but the *alter ego* of West Virginia. And there seems to have been no limit, either to the desire to have or the willingness to give. The Wheeling convention suggested the creation of a new state, to embrace thirty-nine counties of Virginia, but provided for the annexation of additional counties; the West Virginia constitution framed by a Virginia convention, organized a state of forty-four counties, but made like provision for further expansion; the act of Congress, urgently clamored for by Wheeling Virginia, admitted West Virginia with forty-eight counties, and a subsequent act ratified the annexation of two others—in each case a Virginia convention proposing, a Virginia legislature ratifying, and a Virginia governor certifying the result of the popular vote and the transfer of Virginia's territory to another state. The character of the "popular vote" which, in those days, and in restored Virginia, and by the government of the United States, was considered adequate to set the great seal of ratification by the people, is well illustrated in a statement made by Mr. Bingham, of Ohio, upon the floor of the House of Representatives, in 1862, that Mr. Segar, of Virginia, then occupying a seat in that body as the representative of the Accomack District, claimed it upon the basis of twenty-five votes cast in the entire district, all of which he, Mr. Segar, had received, the *district having* cast nearly two thousand (2000) votes in the *last preceding* election.

The extent of the spoliation of Virginia contemplated and *actually proposed* by the Wheeling government, while sti

purporting to represent the Old Commonwealth, is almost incredible. Not only were fifty counties actually transferred to and appropriated by West Virginia, but on the 13th of February, 1862, the Wheeling legislature passed "An act providing for taking the sense of the voters of Accomack and Northampton, whether or not they will be annexed to Maryland," and on the 4th of February, 1863, "An act giving consent to the admission of certain counties into the new state of West Virginia, upon certain conditions," the conditions being a popular vote "For Annexation," etc., and the counties being Tazewell, Bland, Giles, Craig, Buchanan, Wise, Russell, Scott, Lee, Alleghany, Bath, Highland, Frederick, (Jefferson), Clarke, Loudoun, Fairfax, Alexandria, Prince William, Shenandoah, Warren, Page and Rockingham.

VIRGINIA AT ALEXANDRIA.

After "Reorganized Virginia" had, by a second reorganization, transformed herself into West Virginia, it might be supposed the by-play of "The Two Virginias" was at an end. By no means. Francis H. Pierpoint, had been elected or appointed by the Wheeling convention in June, '61, "Governor of Virginia" to hold for six months or until his successor should be elected and qualified. Although substantially the entire territory represented in and supporting his administration had become another state and elected another governor, yet, as his government had purported to stand for the entire commonwealth and been so recognized and treated by the government at Washington, why might he continue, if not to act, at least to pose, as the governor of all Virginia, not transferred to West Virginia? He determined not only to do this, but also to hold title to his office by popular election. Upon the fourth Thursday in May, 1863, the same day the loyal voters within the forty-eight transferred counties returned Arthur L. Boreman, governor of West Virginia, the handful who cared to take part in the elections held here and there in *the little fringe of territory*, outside these counties, which *had been irregularly* and occasionally represented in restored *Virginia at Wheeling*, returned Francis H. Pierpoint, go

ernor of Virginia, for the term of three years, beginning January 1st, 1864. They also elected members of the General Assembly, and the new government of the new "Restored Virginia" transferred itself to Alexandria. On the first Monday in December, the governor solemnly called his General Assembly to the new capital.

The constitution and proceedings of that body, indeed of the entire administration of Governor Pierpoint at Alexandria, present a travesty upon the great fundamental principle, "government of the people, by the people and for the people," so ludicrous and pitiful as to be almost beyond belief, and we would hesitate to mention even the outline facts, were not the veritable record extant in the official Journal of the House of Delegates at Alexandria, published in a volume of House Journals, 1861 to 1865. When the House met and the roll was called seven delegates responded, representing five counties, Norfolk, Loudoun, Alexandria, Northampton and Prince William. The body adjourned until the next day, and on that day again adjourned, finally organizing on December 9th, with eight members in this the popular branch. Of course in such a body there was not much swing between a committee of one and a committee of the whole, and it is amusing to note how the same names occur and recur in varying order upon the different working committees. How many members then composed the Senate of restored Virginia we have not been able to learn. It is said the aggregate number of the Assembly never exceeded 16, but this baker's dozen appointed committees and went gravely to work as the legislature of a sovereign state of nearly a million and a quarter of inhabitants. They called a constitutional convention which met on the 13th of February, 1864, numbering exactly sixteen members, and this representative body of Virginia statesmen amended the constitution of the commonwealth, by inserting a provision abolishing slavery and making other changes suggested by the partition of the state.

This Alexandria government received but scant consideration from any quarter. In the summer of 1864, General Butler commanding at Norfolk, finding the officers of this government assuming to exercise their functions within hi

lines, and learning that they claimed to have been legally elected, by virtue of having received the majority of a total of one hundred and nine votes cast in the city, ordered another, election upon the issue whether the people of Norfolk preferred to be under this pitiful and powerless concern, or the strong and steady rule of the military arm. Three hundred and forty-six votes were cast in this second election; 330 for military government, and but 16 for poor Pierpoint and his "Restored Virginia." With cruel irony, Butler issued a second order claiming that only 20 votes were cast in the first election, exclusive of the votes of the 45 candidates upon the ticket of each of the two political parties, "assuming always," said he, "that the men running for office in a city, vote for each other;" and he closed with a gentle reminder that these pretended civil officers must "no longer attempt to exercise such functions, and upon any pretence or attempt so to do, the military commandant at Norfolk will see to it that the persons so acting are stayed and quieted."

The contemned and derided Governor of "Restored Virginia" appealed to the President who promised to interfere, but the military authorities held the field. Finding at last that the protection of his Alexandria bantling from insult was a little too much for even his compliant party friends at Washington to undertake, upon the re-assembling of his faithful legislature in December, '64, Governor Pierpoint relieved his wounded feelings in a manifesto to them relating all his woes. As above suggested, with regard to the very origin of the Alexandria goverment and the ordinary conduct of its proceedings, it is difficult to realize that we are reviewing the earnest and practical work of men of intelligence and purpose, the entire affair savoring rather of the mock gravity of intentional burlesque. But the message in question is such a remarkable expression even of this very remarkable administration, that we ask indulgence for a somewhat lengthy extract, bearing upon the conflict with General Butler above referred to. Says the governor: "There might have been a number of counties organized in the eastern part of the state ring within the boundaries of the military district of Vi

ginia and North Carolina, but for the hostility of the military commander of that district to civil government. General Butler commanding that district combined in June last with a few persons composed of the worst rebel sympathizers in Norfolk, others representing a liquor monopoly, army followers and British subjects, and at their request, (or in his own words, they 'informed the judgment of the commanding general'), he overthrew the republican civil government of Virginia established in his district, and on its overthrow erected a military despotism instead thereof; and has inaugurated a reign of terror and torture, a history of which would rival the darkest chapters of despotism in the middle ages. Union and rebel sympathizers are alike the objects of oppression. Union and rebel families, are heartlessly turned out of their houses to make places for families of officers of the army and army followers. The appeal of the helpless female and tender infant are alike unavailing. He has seized the assessor's books of the municipal government and placed them in the hands of the military for collection, and taken the direction of all the civil affairs of the state, even to the establishment of schools. Persons having taken the oath of allegiance under the President's amnesty proclamation, with the promise of full pardon, which implies protection, are turned out of their property, not for military but for speculative purposes, to forward the fortunes of Massachusetts friends, with the declaration that he intends to serve all so when it suits his purposes.

"The collectors of state taxes are forbidden to proceed with their collections or to pay what they have collected into the treasury of the civil government of the state. Printing-presses have been seized and a daily newspaper started, which is edited by a captain and commissary of subsistence who receives his salary from the United States Government. Twenty or thirty soldiers are detailed from the volunteer army of the United States to print and peddle the paper for private emolument. The great object of the paper, next to private gain, is to disparage the loyal sentiment and civil government of the state. There can be no question but that the military power of the department is used for private speculation."

What wonder that President Lincoln, in conversation with Judge Campbell, said of this Alexandria experiment, "I have a government in Virginia, the Pierpoint government. It has but a small margin, and I am not disposed to increase it."

II.

RESTORATION.

The people of the United States, of all sections and parties, have come to regard it as alike of historical and practical interest to ascertain with certainty the opinion of Abraham Lincoln upon every question affecting the policy or the welfare of the country. It is generally believed by them that at the close of the war, Mr. Lincoln favored a policy of restoration of the Southern states, and especially of Virginia, to the Union, with the least possible friction, delay or interference with their existing organizations. This belief would seem to rest on a solid basis of fact. It is consistent with the spirit of his proclamation of December 8, 1863, and his other official acts and public utterances. It is noticeable also that, nearly every historian of the times makes some allusion to his views touching peace and reunion, and most of them emphasize his liberal sentiments and strong yearning for the speedy re-establishment of the Union of the fathers. Henry Ward Beecher, whom Mr. Lincoln styled "the foremost citizen of the republic," says, in the preface to his famous "Cleveland Letters:" "President Lincoln and Governor Andrew, of Massachusetts, in the last conversation which I had with them, inclined to the policy of immediate restoration; and their views had great weight with me."

During his brief visit to Richmond, immediately upon its occupation by the Federal forces in April, 1865, the President held two or three memorable interviews with Judge John A. Campbell, formerly of the Supreme Court of the United States, and later of the Confederate war office, and with a committee of citizens, of which Judge Campbell and *Judge Henry W. Thomas*, then Second Auditor of Virginia, *under the Richmond* government, and afterwards Lieutenant *Governor of the state*, were members. Full details of the

interviews may be found in Judge Campbell's pamphlet, entitled "Reminiscences and Documents Relating to the Civil War during the year 1865," and in the September number, 1889, of the "Magazine of American History." The expressions attributed to Mr. Lincoln in these narratives are marked by that broad common sense and hearty, homely, vigor of expression so characteristic of him. They are related by gentlemen of the highest character, and bear the unmistakable stamp of genuineness and truth.

Judge Campbell says that he told him "he wanted the very Legislature which had been sitting 'up yonder'—pointing to the capitol—to come together, and to vote to restore Virginia to the Union and recall her soldiers from the Confederate Army:" this in immediate connection and contrast with the disparaging remark about the Alexandria government above quoted.

Judge Thomas' account is yet more conclusive, not only as his own draft of his sworn testimony as witness in an important trial, but because, in answer to his suggestion that Governor Pierpoint be sent down to Richmond, the President replied that he did not want him, adding, "The government that took Virginia out is the government that should bring her back, and is the government that alone can effect it. . . . They must come here to the very place they went out of the Union to come back; and you people will doubtless all return, and we shall have old Virginia back again." A second time, in reply to some modification of the plan suggested by Judge Thomas, he protested, "No! the government that took the state out must bring her back." He asked who was governor of the State when it seceded; said he wanted him present, as well as Governor Smith, who had left Richmond but two days before; spoke of the latter as "Extra Billy," and added, making use of some such expletive as "By Jove!" and smiting the table with his clenched fist, "I want that old game cock back here." On the 6th of April the President sent up *from City Point,* whither he had returned, written authority *to General Weitzel,* commanding at Richmond, to permit the *assembling of the* legislature, and a formal call was issued, *igned by prominent* citizens of Virginia, and approved by th *eneral commanding.*

After his return to Washington, Mr. Lincoln recalled this permission, and there are those who deny that he ever entertained the broad and statesmanlike views so freely and emphatically expressed by him while in Richmond. They assert that his sole object was to secure the withdrawal of the Virginia troops from the Confederate armies, and that his letter of April 6th, to General Weitzel, limited the authority of the legislature to this single specific matter. They forget that this letter, in terms, directed the General to extend his "permission" and "protection" to the Assembly "until, if at all, they attempt any action hostile to the United States."*

With better apparent reason, they insist that the terms of the telegraphic order withdrawing the authority for the legislature to assemble clearly exclude the idea that any authority was ever given or contemplated to do anything beyond the mere recall of the Virginia troops. Those who attribute such conclusive weight to the mere phraseology of this order are either ignorant of, or overlook, or underrate, the part taken in the preparation of the telegram by the most powerful personality about Mr. Lincoln, the great War Secretary, iron-willed and iron-hearted. It is interesting to note that General Grant attributes the entire responsibility for this order of recall to Secretary Stanton, who he says "always did in war time what he wanted to do."† "What he wanted to do" upon this particular occasion and in this particular matter is rendered perfectly clear by his own testimony in the "Impeachment Investigation," and when that testimony is read in the light of the circumstances surrounding the witness at the time it was given,—notwithstanding some superficial contrarieties—it is equally clear what Mr. Lincoln wanted to do, and would probably yet have done, if he had lived. Looking backward, near the close of his tremendous life, Edwin M. Stanton said of Abraham Lincoln—"If he had lived he would have had a hard time with his party, as he would have been at odds with it on Reconstruction."‡ One cannot banish

*Report of the Joint Committee on Conduct of the War, Second Session 38th Congress, Part I., 1864–65, pages 521–523; Gen. Weitzel's testimony.
†Grant's Memoirs, 2d vol. p. 506.
‡McCulloch's "Men and Measures of Half a Century," p. 402.

the conviction that, "if he had lived," the tender patriotic heart of Lincoln would have had a harder time with Stanton than with any other man of his party.

When he gave the testimony referred to, Secretary Stanton had not come to an open rupture with President Johnson, but it was well understood they had differed upon several important measures, and were irreconcilably at variance with regard especially to Reconstruction, which was, just then (May 18th, 1867) the subject of the greatest excitement in Congress and throughout the country. Mr. Stanton was recognized as the strongest man and the probable future leader of the radical wing of the Republican party, and was of course not very anxious that President Johnson's friends upon the committee should make good their main defense, which was that President Johnson was simply carrying out the policy of President Lincoln. And yet he testified that "The policy of undertaking to restore the government through the medium of the rebel organizations was . . . strongly and vehemently opposed by myself,"—while he admitted Mr. Lincoln favored this policy—that he "had several earnest conversations with him upon the subject," the Attorney-General aiding the Secretary in the last conference, just before the telegram to Weitzel recalling the permission for the Legislature to assemble was sent—that that telegram was prepared at his suggestion, in his presence, and under his correction—that even "after the surrender of Lee's army and the virtual suppression of the rebellion," Mr. Lincoln still adhered to his idea or plan which "included an organization preliminarily through the medium of the rebel legislatures" and that at the last Cabinet meeting he ever attended, which was after the sending of the telegram to Weitzel, "the President seemed to be laboring under the impression that there must be some starting point in the reorganization, and that it could only be through the agency of the rebel organizations then existing, but which I did not deem to be at all necessary. That night *Mr. Lincoln* was murdered." When reminded that he had *said he did* "not think Mr. Lincoln had finally matured any *plan which* he had determined positively to carry out at the *time of his* death," he answered, "When I say that, I me

ever expressed any to me. He made a speech a day or before his death, but I do not remember whether he ated anything as to a plan of organization."*

is passing strange Mr. Stanton should have been so ant as to the character and contents of that speech. One biographers of the martyred President says of it: "On evening of Tuesday, April 11th, Mr. Lincoln was ded and the general expectation of a somewhat elabor- peech, giving a definite foreshadowing of his future in regard to the rebel states, attracted a very large ring of the people. The remarks he designed to make is occasion were carefully written out, and will be ever rable as the final words of political counsel which he ft as a legacy to his country."

e speech is a distinct recognition of the attack already upon him because of his liberal reconstruction policy, is as distinct an outlining and defense of that policy as ien practicable;—distinct to this extent at least, that it ites a readiness to recognize that government in a state will soonest bring that state into "proper practical re- " to the Union, and it indicates also that the recognition gro suffrage by a state is not regarded as a *sine qua non* e existence of such "proper practical relation." It r discloses a view as to the effect of secession upon the id sovereignty of the "seceded states, so called," and relations to the Union, widely differing from that upon the Reconstruction Acts were subsequently based. We a single extract.—"We all agree that the seceded states, led, are out of their proper practical relation with the n, and that the sole object of the government, civil and ry, in regard to those states, is to again get them into proper practical relation. I believe it is not only pos- but in fact easier to do this without deciding, or even lering, whether these states have ever been out of the n. Finding themselves safely at home, it would be y immaterial whether they had ever been abroad. Let *join in doing the* acts necessary to restoring the proper *al relations between* these states and the Union, and

orts of Committees 1st Session, 40th Congress, 1867, pp. 395–4

each forever after innocently indulge his own opinion whether, in doing the acts, he brought the states from without into the Union, or only gave them proper assistance, they never having been out of it." *

Was ever paragraph penned more full of feeling, of practical sense, of patriotism, of statesmanship? Great head, great heart! how many years of happy reunited life did the nation lose by his death?

III.

REORGANIZATION.

From '61 to '65 the government of Virginia, at Richmond, undoubtedly received the loyal and hearty support of the overwhelming majority of the citizens of the commonwealth. When, in April, '65, it became evident that the Southern Confederacy was a dream never to be realized, that government, under a liberal and conciliatory policy at Washington, could and would have united and led the people of the state, as no other government could, in restoring Virginia to her place in the Union. This had been Mr. Lincoln's idea. Whether or not it would have been revived and realized if he had lived no one can say, but there was certainly no suggestion of such revival, from any quarter, after his death. That fearful shock for a time paralyzed North and South alike.

On the 9th of May, 1861, however, President Johnson issued executive orders annulling all the acts and proceedings of the Confederate and State governments at Richmond, and recognizing the Pierpoint government as the true and lawful government of Virginia. But even in advance of this, the inexorable logic of events had been fully recognized by the people of the state, and, on the 8th of May, pursuant to notice, a large public meeting was held in Augusta county, at the suggestion and under the chairmanship and guidance of the Hon. A. H. H. Stuart, a gentleman of the highest character *and ability* and the ripest culture and experience. The

* *Barrett's "Life,* Speeches and Services of Abraham Lincoln," pages 780–784.

proceedings of this meeting demonstrated a thorough comprehension of the situation, and a thoroughly practical and proper spirit in dealing with it, on the part of the people generally as well as of their leaders. It culminated in a recommendation for a state convention, and the appointment of a committee to ascertain whether the military authorities at Richmond would authorize an election for that purpose. This meeting was followed by others of like character throughout the commonwealth, but of course the necessity for a convention was largely superseded by the action of President Johnson.

Governor Pierpoint arrived in Richmond on the 23rd of May, and it is said the entire legislative and executive departments of his government, and the archives as well, were transported from the steamer to the capitol in an ambulance. Whether this report is true or not, it might well have been.

There is something almost grotesque in the idea of such a government, elected as this had been, assuming control of such a commonwealth as Virginia. Yet it is fair to add that the practical wisdom of Governor Pierpoint in holding on through snubs and sneers as the governor of "Restored Virginia" at Alexandria, was vindicated by the result,—and that his administration at Richmond was in the main liberal and patriotic, though of course embarrassed by the co-existence and operation of the military control established by the United States; the military and civil authorities both taking part in the reorganization of the state, the former exhibiting probably a little more consideration for the latter than Gen. Butler had done in Norfolk a year before. Being satisfied, both from information and experiment, that even a decent organization was impracticable in most of the counties of the commonwealth, without the repeal of the disfranchising and disqualifying clauses of the Alexandria constitution, the governor called his pigmy legislature together in special session at Richmond, on the 20th of June, 1865, and in his message to them, said: "It is folly to suppose that a state could be governed under a republican form of government, wherein a large portion of the state, nineteen-twentieths of the people, are disfranchised and cannot hold office." The state constitution fortunately giving the legislature some control of this sub

ject, measures were promptly passed providing for partial relief from these disqualifications, by constitutional amendment, to be submitted to popular vote. The good sense, liberality and patriotism thus displayed, both by the Governor and the Assembly, so far conciliated and enheartened the people of the state that, on the 12th of October, elections were held generally throughout Virginia, for members of the Assembly and of Congress, and upon the proposed amendment to the constitution which was adopted by an overwhelming majority, the bitter partisan feeling afterwards engendered by the long agony and fierce struggles of reconstruction not being as yet aroused.

Thus the shackles of war legislation were stricken from the limbs of her sons, and the ancient Commonwealth fully organized and equipped stood ready to advance and reoccupy her old position in the American Union of sovereign and coequal states. Her right to do so would appear to have been unassailable even by the most prejudiced political foe. She was ready and offered herself, with a government organized in the dark days of secession, under the immediate suggestion and supervision of Federal authority, and consecrated by the devotion of the handful of Virginians then and ever loyal and faithful to the Union,—a government afterwards recognized by the Congress of the United States as the true and lawful government of Virginia, upon whose rightful authority and consent, according to the theory of Congress, were based the division of the old Commonwealth, the existence and admission of West Virginia, and the transfer and annexation of Berkeley and Jefferson counties to that state,—a government recognized also by the executive of the United States, in solemn presidental proclamation of its legitimate right,—a government at last happily acquiesced in and supported by substantially all the citizens of Virginia.

IV.

DESTRUCTION.

The life of the state and the hopes of her people beat high *when, upon the* assembling of Congress in December, 1865, *he duly accredited* representatives of Virginia repaired to the

national capitol. Having deposited their credentials with the clerk they took their seats upon the floor, but, upon the preliminary call of the House, it appeared that the clerk had not entered the name of a single representative of a southern state upon the roll. There was no opportunity for defense or debate, not even for protest. The outrage was consummated as soon as suggested. Upon what ground can it be defended?

Here was no exclusion of individuals, by test-oath or for personal disqualification. The thing was done wholesale, and of necessity upon the theory, that "the late rebel states" were not entitled to representation.

Why? Was it that these states did not have a republican form of government, and that Congress felt bound to guarantee this to them; or, that they did not seem likely to have a republican majority in elections, and that Congress felt anxious to guarantee this to them? From 1861–64 "restored Virginia" had been represented in Congress—was her constitution republican in form from 1861–64, and unrepublican in 1865? And if so, did the existence of test-oaths and disfranchisements and disqualifications make her original constitution republican, and the expurgation of these features make her amended constitution unrepublican? Was the Pierpoint government of Virginia entirely satisfactory while it did not actually represent one in twenty of her citizens, and entirely unsatisfactory when it came to represent all of them? Were the constitutions of the several northern states, which in 1865 did not recognize negro suffrage, republican in form, and the constitutions of the southern states, which did not embody such recognition, unrepublican?

These are grave questions. We throw what light we may upon their solution, by laying upon the conscience of an intelligent and candid people, one question more. Would the representatives from the southern states have been barred out of Congress in 1865, if, either with or without negro suffrage, these states had been so organized as to give fair assurance of substantial republican majorities?

However this may be, two things at least are clear: first, *there was nothing in the* condition of affairs in Virginia—no *resistance to national* authority, no excitement, no disord

no insecurity of life or property—which even approximated to a justification of this sudden smothering of the fresh life of the state, the fresh hopes of her people; and *second*, this summary ejection of her representatives, without reason assigned or chance to be heard, did more to engender in Virginia a deep sense of wrong, and to retard the return of good feeling, than the entire military operations of any one year of the war.

It should be remembered that the mass of the people of Virginia, having been honestly and heartily devoted to the cause of the Confederacy, justly felt that they had gone very far in the direction of concession and conciliation, when they accepted and "honestly and cordially sustained" the Pierpoint government, thus adding to it the great seal of popular ratification, which it specially lacked, and for lack of which it had been frequently sneered at, even by the extreme leaders of its own party. They felt, too, that that government and the state organized under it stood, or ought to stand, in an exceptionally strong position with the congress and government of the United States, as having furnished not only the first nucleus and rallying-point for Union sentiment in the south, but also the first suggestion and model for Union organization, as Attorney-General Bates expressed it, "the plan adopted both by Virginia and the general government for the reorganization of the revolted states and the restoration of the integrity of the Union." And they further felt it to be an utter violation, not only of logical and legal consistency, but of good faith, to hold the Pierpoint government, even without popular support, basis sufficient for the creation and admission of West Virginia,—and yet, with popular support added, insufficient for the statehood and admission of Virginia herself.

V.

RECONSTRUCTION.

On December 4, 1865, the first day of the first session of *the Thirty-ninth* Congress, and the very day the representatives *of Virginia* and of the other southern states were ar

summarily ejected from the House of Representatives, Mr. Thaddeus Stevens, who was rapidly forging to the front as the leader of his party upon the floor, introduced his famous resolution for the appointment of the joint committee of fifteen, popularly termed the Reconstruction Committee, charged with the duty of inquiring into the condition of the southern states, and reporting whether any of them were entitled to representation in either house of Congress;—and, upon this pregnant resolution, the mover called the previous question.

Debate being thus shut off, the resolution was carried by a party vote of 133 to 36. The Senate amended by striking out a clause which provided that no member should be admitted from any of these states, until the report of the Joint Committee should be formally acted on by Congress, which clause Senator Doolittle termed "a dissolution of the Union by act of Congress." But even this fearful feature, little if at all modified, was subsequently passed, as the battle between Congress and the President grew hotter.

"It was foreseen," says Mr. Blaine, on page 127 of vol. 2 of his book, "that, in an especial degree, the fortunes of the republican party would be in the keeping of the fifteen men who might be chosen." Was it not foreseen, that the fortunes of this great country, and of those unfortunate states, would be in their keeping also? Or, were these considerations overlooked, or too little appreciated to be properly responded to, in the selection of "the fifteen men"?

However this may be, the fact is that 12 Republicans and but 3 Democrats were appointed, and there was not a single Democrat upon the sub-committee which "did" Virginia. Whether or not the members of the joint committee "foresaw" what their great leader did, they certainly took care of "the fortunes of the party," and let the country take care of itself. Their report was what an experienced and unprejudiced man might have predicted, and their bills also, which, after long incubation, were hatched out in the spring of 1867.

The character and contents of the first great bill are well *known:—its preamble* reciting that no legal republican *governments, and* no adequate protection for life or pr

perty exist in "the rebel states,"—the degradation of these states into military districts, and their complete subjection to military control,—the rigorous disfranchisement of most of those who had theretofore been prominent and influential in the community, and who would naturally possess most of the qualities and experience so imperatively demanded by the state in such a crisis,—the long road out again to civil liberty and sovereign statehood, hedged about with hard conditions.

BRIEF REVIEW.

It may be well to go back a little, in order to get a correct conception of the condition of affairs and course of events in Virginia, and the changes, if any, introduced by the reconstruction acts. From the day of the occupation of the capitol by the Federal forces, in April, 1865, there had been continuously a military commandant of the Department, with headquarters at Richmond,—one officer succeeding another, as the exigencies of the military service might require. Meanwhile, certainly from and after the arrival of Governor Pierpoint, in the latter part of May, the operations of civil government—state and municipal, legislative, executive and judicial—went on, theoretically independent of, but practically co-ordinate with, or rather subordinate to, the military. There was, of course, constant fettering and embarrassment of the civil government, and ever and anon occurred irritating clashings of the two powers, interferences by the military, and humiliations of the civil; *e. g.*:—

General Terry, by military order of date January 24th, 1866, nullified an act of the General Assembly of Virginia, directing that no civil officer or other person should attempt to enforce or apply the statute in certain cases.

General Turner, in August, 1866, forbade the organization of the Council of the City of Richmond, upon the ground that certain other city officers, recently elected, had been officers in the Confederate army; and when the obnoxious persons, to save further friction, declined to accept their respective offices, Generals Turner and Terry still refused to allow the Council to meet, until it became absolutely necessary, in

order to prepare for the state election, and even then required the resignation of certain members of the council also.

General Schofield, having rearrested Dr. James L. Watson, who had been arrested and tried by a Virginia court, upon the charge of murdering a negro, in Rockbridge county, and acquitted,—on the 19th of December, 1866, refused to obey a writ of habeas corpus from the Circuit Court of the City of Richmond, stating in answer to the writ, his intention to have Dr. Watson retried for his life before a military court organized in connection with the Freedman's Bureau, under the fearful powers conferred upon that institution by the supplemental act of July 16th, 1866. In one aspect it lightens, and in another it deepens, the shading of this picture, to learn that the Attorney-General of the United States promptly pronounced this Freedman's Bureau court to be utterly without jurisdiction in the premises, and that Watson was released by order of the President.

In these dark days such wrongs were common, and in estimating the self-restraint, good sense and good feeling displayed by the people of Virginia during the entire period of military control, regard should be had to the repeated exasperations to which they were subjected. One of the most intense and demoralizing of these—not, it is true, strictly connected with reconstruction—was the proclamation of President Johnson, of May 2d, 1865, charging the late President of the Confederacy, and other gentlemen of character and position, with complicity in the murder of President Lincoln, and putting a price upon their heads.

The Freedman's Bureau, with the demoralization of labor and annoyance to the employer of labor, resulting from the incitement of vain hopes and utterly inappropriate notions in the colored race, and its assumption of petty police as well as graver criminal jurisdiction, over both races, was a source of constant and wide-spread irritation. At this distance from the date and the fact, it is difficult to conceive of a state of things, in which a gentleman of age and position would feel *compelled to ride*, perhaps twenty miles and back, *in mid-winter, over shocking* roads, upon a most informal notifica*tion, delivered* perchance by the hand of the complain-

himself, requiring the defendant to appear before some petty provost marshal or Freedman's Bureau agent, and answer a charge of uttering "offensive language," say, to the cowboy on his plantation. Yet, in the country districts of Virginia, from 1865 to 1869, such experiences were by no means unusual.

LEGISLATION AFFECTING FREEDMEN.

Unfairness in the legislation of the southern states, in 1865–66, with reference to the freedmen, is the justification mainly pleaded for the harsher terms of reconstruction imposed after that date. The attempt has been also made, upon this ground, to justify the refusal of the House of Representatives to admit the delegations elected from the southern states to the Thirty-ninth Congress. In the case of Virginia, at least, this attempt utterly fails; for the exclusion of her representatives occurred December 4th, 1865, while her "Vagrant Act," the only statute of the session we have ever seen specified as unfair to freedmen, was passed January 15th, 1866.

Professor Alexander Johnston, the able and distinguished author of the article on Reconstruction, in the 3d volume of the Cyclopedia of Political Science, speaking of the defeat of the milder "Presidential Plan," the substitution for it of the harsher "Congressional Plan," and of the vindication and endorsement of the latter in the popular elections at the North, says: "The controlling reason will be found in the constant irritation kept up by the general cast of the legislation in regard to freedmen, by the reconstructed legislatures of 1865–66." Such a charge, from such a source, should be squarely met, and we feel no hesitation in saying of this also, that it is baseless so far as Virginia is concerned.

With regard to the general criminal legislation of the southern states during this period and affecting this class, Prof. Johnston makes this handsome and deserved concession: "*Taken as a whole* and considered as the work of men who *had, within a year,* been absolute masters of the freedmen, *and who had* been dispossessed of their control by war and *conquest, it must* be conceded that it exhibits remarkable self

control, public spirit and equity." He also calls attention to the conspicuous equity of the Virginia statute regulating contracts between blacks and whites. But he adds a sweeping condemnation of "the vagrancy and stay laws passed by most of the southern legislatures." The "stay" laws in no way concerned freedmen, and it is enough to say of the Virginia stay law, that after the expiration of the period fixed by the legislature for its operation, it was several times extended by order of the military commander of the district.

The "Vagrant Act" of Virginia, Acts 65–6, Chap. 28, is the statute which General Terry would not allow to be enforced as to the freedmen, stating the reasons for his action in an inflammatory order published far and wide, and Prof. Johnston not only endorses Terry's views, but adds a stricture of his own, to wit: "The Virginia act declared all persons vagrants who . . . broke a contract with an employer, and in this case authorized the employer to work the runaway an additional month with ball and chain, if necessary." What wonder, that, by orders such as Terry's and statements such as this, "the Northern heart was fired against the South," and the harsh reconstruction policy of Congress endorsed in the popular elections! Such a statute would indeed be monstrous, but there never has been such a statute in Virginia. Her people, thank God! with all their faults, have too strong a sense of humanity and justice, and sound policy, even to contemplate such an enactment. Accurate as Prof. Johnston usually is, he cannot be pardoned for this misstatement.

The *first* section of the act has to do only with the arrest, trial and punishment of vagrants—the *second* is the section which defines the crime of vagrancy, and it begins with these words: "The following described persons shall be liable to the penalties imposed on vagrants;" and then follow five paragraphs descriptive of five different classes of persons. The classification is too long to quote. Suffice it to say there is not even the most remote approximation to the specification that merely breaking a contract of employment constitutes a *laborer a vagrant.* A glance at the first section of the act *will explain Prof. Johnston's* mistake. That section allowed *the condemned vagrant* to be hired out by the proper officer

his wages to be applied "for the use of the vagrant or his family"—and then follows this provision: "And if any such *vagrant or vagrants* shall, during such time of service, *without sufficient cause*, run away from the person so employing him or them, he or they shall be apprehended, *on the warrant of a justice*, and returned to the custody of such hirer, who shall have, free of any further hire, the services of said vagrant for one month in addition to the original term of hiring; and said employer shall then have the power, *if authorized by the justice*, to work said vagrant confined with *ball and chain*."

We have no desire to reflect upon General Terry's state,—indeed, next perhaps to Virginia, or at least high upon the list of states, we love Connecticut. But, apropos of the suggested brutality of "ball and chain" put so prominently forward in comments by northern men upon this Virginia act, we quote for the benefit of General Terry, or any other citizen of "the wooden nutmeg state" who may care to make a study of the comparative civilization of Virginia and Connecticut, the corresponding provision of the Connecticut act, upon the same subject at the same date. As in the case of our Virginia statute, we italicize those clauses which specially point the comparison. General Statutes of Connecticut, page 642, Section 72. "If any offender shall abscond, escape or depart from the work-house, *without license*, the *master* shall have power to pursue, retake and bring him back, and to require all necessary aid for that purpose, and when brought back the *master* may confine him to his work by *fetters* or *shackles*, or *in such manner* as *he* may *judge necessary;* or may put him in close confinement until he shall submit to the regulations of the work-house; and for every escape such offender shall be holden to labor in the work-house for the term of one month, in addition to the time for which he was first committed."

General Terry's objections to the Virginia statute were *based upon the* definition of "vagrant," embodied in the *second paragraph* of the second section, which is in these *words: "All* persons who, not having wherewith to main*tain themselves* and their families, live idly and without ev

ployment, and refuse to work for the usual and common wages given to the laborers in the like work in the place where they then are." He makes, substantially, three points, viz.: 1st. Combinations of employers, to depress wages below a living rate, with the further evil-intent of punishing, as criminals, freedmen who refuse to work for these inadequate wages, exist in Virginia. 2d. Even where they do not, "the temptation to form them offered by the statute will be too strong to be resisted." 3d. The effect of the statute will be to reduce the freedmen to "a condition which will be slavery in all but its name, . . . a condition of servitude worse than that from which they have been emancipated."

The people of Virginia feel that a great wrong was done them by General Terry, and that great evil followed. It is impossible to say to what extent their subsequent hard bondage in the reconstruction mills is chargeable to the wide circulation of his ill-advised and ill-tempered order of January 24th, 1866.

His first position was promptly challenged at the time. During that year a Richmond paper truly and temperately said: "It is the misfortune, rather than the fault, of the Virginia agriculturist that he cannot offer higher wages to the negro. The want of capital, the exhausted condition of the state and the unsettled state of the country, forbid that he should compete with farmers of more prosperous states." Not only did poverty explain and excuse low wages, but, as to the true construction and intent of the act, it would seem obvious to any unprejudiced mind, that the clause Gen. Terry took exception to, viz.: that, in order to be held "vagrants," laborers must "refuse to work for the *usual and common* wages given to other laborers, in *the like work*, in *the place where* they then are," was inserted not for the oppression, but for the protection of the freedmen. As to the second and third points made in his order, it is sufficient to say, that although the act in question is now and has ever since continuously been upon the statute book of Virginia, the Republican party having also, at one time, had control of legislation, yet no one, save General Terry, has ever seen in the provision above quoted a cunning and cruel engine for th

oppression of the freedmen, and they have certainly not been reduced to slavery by it.

The sad condition of the South at this crisis, and the urgent demand for strong state legislation to restrain vagrancy and the wanton idleness which ever follows war and sudden emancipation, have been so frequently and fully set forth, that we forbear, merely suggesting the contrast between the spirit of Gen. Terry's order, and that of Mr. Lincoln's proclamation of December 8th, 1863, which pledged the "National Executive" in advance, to be satisfied with "any provision which may be adopted by a state government in relation to the freed people of such state, which shall recognize and declare their permanent freedom, provide for their education" and yet deal appropriately with them "as a laboring, landless, homeless class."

The Legislature of '65–6, struck the key-note of the entire work of the session as affecting freedmen, in the 3rd of a series of resolutions touching reconstruction, adopted by that body and addressed to the President of the United States. It is in these words: "3. That involuntary servitude except for crime is abolished, and ought not to be re-established, and the negro race among us should be treated with justice, humanity, and good faith, and every means that the wisdom of the legislature can devise should be adopted to make them useful and intelligent members of society." Virginia at this early date had no money to expend in education. As soon and as far as she had, she did her full duty, in this respect also, to the colored people of the state, and continues to do it, dividing the public school fund between whites and blacks in proportion to numbers, the colored people of course paying but an insignificant proportion of the taxes from which the fund is derived.

The following is a brief summary of the session's work, so far as it affected the freedmen.

No law was passed unjustly discriminating against them.

Laws were passed to the following effect, to wit:

Criminal and Police Regulations.—All laws in respect to *crimes, punishments* and criminal proceedings applicable to *white persons* were made applicable to colored persons, unless

where otherwise specially provided: no provisions to the contrary are now recalled, and it is safe to say no important ones existed.

The following acts and parts of acts were repealed:

All relating to slaves and slavery.—Chapters 107, 200, 212 and 98 of the code relating respectively to free negroes, offenses by negroes, proceedings against negroes, and patrols,—sundry other minor provisions affecting negroes,—and all acts and parts of acts imposing on negroes the penalty of stripes, where the same penalty is not imposed on white persons.

Family Relations.—Colored persons living together, at the passage of the act, as husband and wife, even if not legally married, shall be regarded and treated as if they were, and their children as legitimate,—and even where they have ceased so to cohabit before the passage of this act, all children of the woman acknowledged by the man to be his shall be deemed legitimate.

Testimony.—The testimony of colored persons shall be received in all cases where a colored person is a party, or his rights are involved, and shall be taken *ore tenus*, special provision being made for the court's certifying it if desired or deemed proper.

Contracts and Labor.—No contract between a white and colored person for the employment of the latter for a period longer than two months shall be binding on such *colored person*, unless in writing, signed and acknowledged by both parties before an appropriate officer, or two or more credible witnesses in the place where the white person resides or the work is to be done, who must also certify that the contract before being acknowledged was read and explained to *the colored person*.

Now, bearing in mind that the negro was not yet a voter, and also bearing in mind the magnanimous but very just and pertinent reflection of Prof. Johnston, that all this legislation was "*the work of men* who had, within a year, been *absolute masters of the* freedmen, and who had been dispos*sessed of their control* by war and conquest,"—is not th*entire scheme and system* deserving of the high encomi

pronounced by Prof. Johnston upon a part of it, to wit: that "it exhibits remarkable self-control, public spirit and equity."

We shall not review the legislation of the subsequent session, because, the charge against which we are endeavoring to defend Virginia, and the evil which followed to her and her sister southern states, is connected exclusively with the legislation of 1865–1866. Prof. Johnston says: "Before Congress met in December 1865, the mass of legislation above summarized had fairly taken shape; and . . . it had already swung the whole Republican party into opposition to the Presidential policy." No exception so far as we know has ever been taken to the legislation of Virginia in 1866–1867, except that, having abolished slavery and its traces, the old commonwealth went no further in ratifying the amendments to the constitution of the United States, as they were successively proposed, nor until such ratification was made a condition precedent to the restoration of her rights. For states of the North, the ratification of these provisions might well be regarded as a matter of course, but for Virginia —with slavery and defeat behind, and disfranchisement and the fearful mass of ignorant suffrage before—the question presented was a very different one. Every fair-minded man will admit the force of this suggestion.

THE COURTS UNDER RECONSTRUCTION.

No department of the government, no institution of society, felt the blasting touch of reconstruction as did the courts.

It is difficult to estimate the inconvenience, embarrassment and loss to the people of the state involved, in the turning out of office of over a hundred trained clerks of courts—and these old Virginia clerks were a rare and admirable class of men—their places being filled for the most part, *and, it is fair to* add, of necessity, by incompetent and worthless adventurers. If this be a just reflection, what shall be said of the removal by military order of a pure, learned and able judiciary, and the elevation to their seats of a set of me

who, stating the case most favorably for them, as a rule lacked the most essential requisites for the efficient discharge of their responsible duties. The writer has appeared, in a Circuit Court of Virginia, before a bench upon which sat a so-called judge, who had the day before been a clerk in a village grocery store, and who was not better fitted for the dignity and duty devolved upon him than the average grocery clerk would be.

It has well nigh passed out of the appreciative recollection even of the bar of the state, that pages 544 to 569 of 19th Grattan are taken up with the decisions of the "Military Court of Appeals" composed of two soldiers and one civilian, Major H. B. Burnham, President of the Court, being an officer of General Schofield's staff. Two United States soldiers detailed by military order for service upon the bench of the court of last resort, in the state which gave John Marshall to the jurisprudence of the nation and of the world! It has always been understood that the two military officers, during their judicial service, continued to draw their pay as soldiers from the United States, while drawing their salaries as judges from the state of Virginia; but, they were men of ability and dignity, and there was certainly nothing discreditable in their bearing, or in the discharge of their duty as judges.

As above intimated, however, the average appointee of the military to judicial position in Virginia was a prodigy of ignorance and incompetence. A now prominent member of the Richmond bar vouches for the absolute accuracy of this recital. During reconstruction times, handing some papers one day to the legal luminary who then presided over and enlightened our most important city court, the judge said, "Mr. G., pardon me, you are a young man, I take the liberty of pointing out to you your mistakes. I see you have "*p. q.*" at the foot of your bill. Mr. L. is a good lawyer, isn't he?"—taking some papers from his pocket—"You see he signs his paper 'L. ——*p. d.*" This eminent jurist did not *even comprehend the* cabalistic abbreviations for the plaintiff *and defendant sides* of a case, as familiar in the law as *"Dr.," for a physician* or "Rev." for a minister in ordina

life. He would have sympathized with the embarrassment of King James presiding in the King's Bench, for, like his Sovereign Majesty, he always thought the last the strongest reason. In a case in which both law and fact were submitted to the court, the writer once heard his honor reverse himself twice within half an hour—interrupting first the plaintiff's counsel, then the defendant's, and again the plaintiff's, saying, at each interruption, that the counsel was "manifestly right," and directing the clerk to enter judgment for his client.

Our United States District Judge during the reconstruction period was the Hon. John C. Underwood, and he usually presided in the Circuit Court also. He was a political bigot, as blind and fanatical as ever sat upon the bench. If a case had any political complexion, it had for him but one side. Thrusting out its tentacles everywhere and sucking in jurisdiction of everything at least, that seemed likely to benefit the party—with the aid of its bankruptcy powers and machinery—political his court became and continued long to be the most powerful engine in the state. Poor old Underwood! if he had been *only* blind and bigoted. Perhaps there never was judge or man so little in danger of being libeled as he, for his moral and judicial photograph is impressed indelibly upon the record of two causes—*McVeigh* vs. *United States*, 11 Wal., 259, and *Underwood* vs. *McVeigh*, 23 Grat., 409. It clearly appears from these cases that, in the year 1862, while sitting at Alexandria, as Judge of the United States District Court, he tried a libel, under the act of July, 1862, for forfeiture of the real estate of one McVeigh, who appeared by counsel, answered, and claimed his property. Underwood "ordered that the appearance, answer and claim be stricken from the files, for the reason that the defendant is a resident of the city of Richmond, within the Confederate lines, and a rebel." The same day he entered a decree of sale, and at the sale himself bought the house in the name of his wife, and moved into it. Upon McVeigh's appeal, the Supreme Court said: "In our *judgment the District* Court committed a serious error in *ordering the claim* and answer of the defendant to be stricken *from the files.* As we are unanimous in this conclusion, our

opinion will be confined to that subject. The order, in effect, denied the respondent a hearing. It is alleged that he was in the position of an alien enemy and hence could have no *locus standi* in that forum. If assailed there he could defend there. The liability and the right are inseparable. A different result would be a blot upon our jurisprudence and civilization. We cannot hesitate or doubt on the subject. It would be contrary to the first principles of the social compact, and of the right administration of justice."

It well illustrates the character of the radical Republican party of Virginia at this period, that this man was chosen as the president of the Reconstruction Constitutional Convention, and that a republican State convention in the year 1866, petitioned Congress to remove Governor Pierpoint and appoint a provisional governor, and that "the Hon. John C. Underwood, the faithful patriot and distinguished jurist, who has always adhered to the government with a fidelity which no flattery could seduce, no bribery corrupt, nor fears intimidate, be selected as said provisional governor."

Not only was the *personnel* of the reconstruction courts generally contemptible, but their *status* and position was worse. It is deeply mortifying to an American citizen to recall the fact that any circumstances could have been considered as justifying the absolute and abject humiliation of the Courts of Justice under the power of the military. Yet so it was, not in practice only, but in theory and upon principle, in the days of reconstruction. On the 28th of May, 1867, Gen. Schofield issued general orders, No. 31, which embodied a sort of judicial organization of his district, by the appointment of "Military Commissioners" clothed with judicial powers "to be selected from the officers of the army and the Freedman's Bureau, who were to be governed in the discharge of their duties, by the laws of Virginia, so far as the same are not in conflict with the laws of the United States, or orders issued from these headquarters."

Although it was elsewhere stated in the order that "It is *intended to aid the civil* authorities, and not to supersede them *except in cases of* necessity," yet the following paragraphs *clearly reveal the true* relation of these military commissioners

and of the military power generally, to the civil courts: "Where parties are held for trial, either in confinement or under bail, such full statement will be made of the facts in each case as will enable the Commanding General to decide whether the case shall be tried by a military commission or be brought before a civil court.

"Trial by the civil courts will be preferred in all cases where there is satisfactory reason to believe that justice will be done. But, until the orders of the Commanding General are made known in any case, the paramount jurisdiction assumed by the military commissioners will be exclusive."

In addition to this general and systematic dependence of the courts, in the fundamental point of jurisdiction, upon the decision of the Commanding General, even where they were allowed to take jurisdiction of causes, the judgments rendered by them were frequently set aside, without appeal or other regular process of review, upon mere military order, of which the following is a sample. There is recorded upon the order book of Amelia County Court, under date of November 28th, 1868, an extract from special orders No. 220, (by Maj. Gen. Stoneman), dated Headquarters, Richmond, Va., November 23rd, 1868, setting aside the verdict and judgment of Amelia County Court, imposing a fine of fifty dollars ($50) and costs on Mrs. Turner, for selling goods without license, granting her a new trial and ordering fine and costs paid by her to be refunded, if not already paid into the state treasury; and charging the military commissioner for the tenth division of Virginia, with the execution of this order; signed, S. F. Chalfin, assistant Adjutant-General. County Court ordered new trial, signed, W. A. Phillips, P. J. P.

The writer is personally cognizant of several such orders, and presumes there are scores if not hundreds of them, more or less fully entered upon the records of the courts of the state. While, in most cases, the judges and magistrates were as compliant as was the County Court of Amelia, yet there were *not wanting instances* in which the rough shock struck fire, as [redacted] a sturdy old magistrate of the Shenandoah [redacted] highest character and ability, and widely [redacted] Receiving an order somewhat sim

ilar to the above, the old Virginian replied substantially as follows: "I assure you I write this letter in no truculent spirit, but I am deeply moved and mortified. I acted in the matter in question and am acting now, conscientiously, as a sworn officer of what you are pleased to term 'District No. 1,' but I the Commonwealth of Virginia. I tried this negro fairly—I convicted him justly—I have imprisoned him securely.—If you insist upon his release, you will have to come up and bring the soldiers of the United States with you, and in that case I shall order out the posse of the county, and make the best resistance I can." It is refreshing to know that the dauntless courage of the heroic magistrate kindled a glow of sympathetic admiration in the bosom of the chivalrous soldier commanding the District, and that the matter was arranged in some way, without humiliating the grand old man.

What wonder that the majestic Chief Justice of the United States, when urged to go to Richmond and open the Circuit Court for the trial of Mr. Davis, refused to do so while the sword hung above the judgment seat—saying that "He could not, consistently with his views of public duty hold a *quasi* military court, nor could he hold a court in any district in a state lately in rebellion, until all semblance of military control over Federal courts and their process and proceedings had been removed by the action of the political department." "I do not wish, so long as—with my notions—I represent the justice of the nation in its highest seat, to hold any court, in the lately—rebel states, until all possibility of claim that the judicial is subordinate to the military power is removed by express declaration from the President." *

Noble words! How they stir a lawyer's blood—how they elevate our conception of Chief Justice Chase—what a flood of light they let in upon "Reconstruction and the Courts."

1867.—SKETCH.—1870.

The change introduced by the reconstruction acts was *simply that we of "the* lately—rebel states" knew where we

* *Schucker's "Life* of Chief Justice Chase," pages 538-9, 537.

stood, or rather, that we no longer had any standing, or any rights whatever. Before, the course of things had been fitful —now, there was the steadiness of death; Virginia was *civiliter mortuus.*

Our real masters were, successively, Generals Schofield, Stoneman and Canby—commanding District No. 1.* The two first were soldiers and gentlemen who simply administered faithfully, yet intelligently and fairly, the absolute despotism of reconstruction. General Schofield was moreover a man of extraordinary ability. Canby released his grip, on the 27th of January, 1870, the day after the bill readmitting Virginia to representation in Congress was passed.

Meanwhile, the so-called "Governors of Virginia" were Francis H. Pierpoint, up to April 4th, 1868; then H. H. Wells, a gentleman from abroad and a military appointee, who, after the election of Gilbert C. Walker, in July, 1869, realizing that the state no longer offered "great opportunities" abdicated in Walker's favor, on September 21st, but the latter did not become the real Governor of the real Commonwealth, until the 27th of January, 1870.

SALIENT POINTS.

1. The demonstration, by actual experiment, that it was impossible to maintain, or even to inaugurate, civil government in Virginia, under the disfranchisements and disqualifications of the Fourteenth Amendment to the Federal constitution, the special legislation of Congress, or the proposed constitution of Virginia.

Both Generals Schofield and Stoneman made repeated and earnest official reports and representations to the effect substantially, that, for the vast majority of the offices, no legally qualified incumbents could be found in Virginia, and none could be imported for the salaries, who possessed sufficient intelligence to discharge the duties. General Schofield even went upon the floor of the Reconstruction Constitutional Convention, which had begun its sessions, on the 3rd of Decem-

*General Webb preceded and substituted Canby for a few days o

ber, 1867, and presented these views as the result of his experience in administering the affairs of the district, earnestly advising and warning the convention against the contemplated disqualifying clauses and adding: "I have no hesitation in saying that I believe it impossible to inaugurate a government upon that basis." But, of that body it might indeed be said: "neither will they be persuaded, though one should rise from the dead."

On the 21st of March, 1869, General Stoneman reported to the Adjutant General, that there were 5446 offices in the state, of which 2504 had been filled by General Schofield and himself, and that of these incumbents only 329 could take the test-oath. That report contained this pregnant paragraph: "The conclusion will force itself upon every intelligent mind, that if, with all the efforts that have been made and the latitude that has been allowed, the offices in the state have not been filled by competent persons, they certainly cannot be filled when the restrictions of any one party are to be observed and complied with, as will be the case upon the adoption of the proposed constitution, under which it is desired by some that the people of Virginia shall be forced to live, and to the requirements of which they are expected to consent."

2. During the season of comparative quiet after the adjournment of the convention in April, '68—no arrangements having been made for putting its constitution to popular vote—the realization of what had been so irresistibly demonstrated was impressing itself more and more upon all thoughtful men. This realization, superadded to the rabid folly of the radical wing, displayed in resisting this demonstration, and attempting to break its force by the publication of virulent libels against the people of the commonwealth generally, and every one who favored the emancipation of her intelligence and worth—gradually sifted out and separated the better class of republicans from the mass of the party in Virginia; so that, by the latter part of 1868, there had come *to be a three-fold division* of parties in the state, Radical *Republicans, Conservative* Republicans and Conservative *Democrats—the two* last-named being much nearer together

than the two first. There may have been a few Radical Democrats also, but radical Democracy was out of fashion and out of heart. By the end of 1868, all men and all parties had clearly before them what impended, if the constitution framed by the convention should be adopted by the people without amendment.

3. In the latter part of December, 1868, largely in consequence of the efforts of Hon. A. H. H. Stuart of Augusta County, a conference of prominent gentlemen of the state was held at Richmond, as the result of which a committee, commonly called "The Committee of Nine," headed by Mr. Stuart, went to Washington in January, '69, and appeared before committees of both houses of Congress, urging that the disfranchising and disqualifying clauses, and also the county organization clause, of the proposed constitution should be put to separate popular vote. Committees of both wings of the Republican party were also in attendance, and the scale was probably turned when the Conservative Republican committee, which had theretofore been as Mr. Stuart says, a sort of "committee of observation," joined earnestly with the Democratic committee in demanding the enfranchising of the intelligence and character of the state.

General Grant, then President-elect, was also interviewed, and one of his first acts as President was to recommend to Congress to allow a separate vote upon the disfranchising and disqualifying clauses. He did not make the recommendation as to the county organization clause, because of difference of opinion in his Cabinet as to the probable effect of the striking out of this clause upon the proposed public school system of the state.*

4. As a result, Congress passed the act as recommended by the President—the regular Democratic state ticket of Virginia previously nominated in May, 1868, was withdrawn, the Democrats or "Conservative Party," as they had now christened themselves, supporting the ticket nominated by the conservative Republicans—the election was held in July, *1869—the* disfranchising and disqualifying clauses were

*Mr. Stuart's pamphlet entitled, "A Narrative of the First Popular Movement in Virginia," in 1865, and of the "Committee of Nine," in

stricken out, the constitution thus expurgated was adopted—Gilbert C. Walker was elected governor—and the old commonwealth was redeemed and restored.

January 26th, 1870, against the protest and opposition of the Radical party of the state, an act was passed readmitting Virginia to representation in Congress, and the nightmare of Reconstruction became—God grant that it may ever remain to the people of this country—a thing of the past.

It is a pleasure, in closing, to record the grateful obligations of Virginia to Generals Schofield, Stoneman and Grant for the manly and generous parts taken by them respectively in the disenthrallment of the state. Only the inexorable demands of history have induced us to record obligations to others of a less pleasant nature. But for these demands, it would be as agreeable to Virginians to forget the latter obligations as to cherish the former.

VI.

THE CONSTITUTIONAL QUESTION.

1st. In the division of Virginia and admission of West Virginia.

It is undoubtedly the general popular impression, shared in some degree even by the bar of the country, that, in the case of *Virginia* vs. *West Virginia*, 11 Wal. 39, the Supreme Court condoned and validated this entire transaction. The impression is groundless, as a moment's reflection will show.

In the first place, as a matter of fact, the bill of Virginia conceded the existence of West Virginia as a sovereign state of the American Union. The very name and style of the cause shows this. Indeed, the section of the constitution upon which alone the question as to existence and admission of West Virginia could be raised, was not so much as once referred to, either by court or counsel, so far as the reported case shows. The only question raised in the suit was as to the validity of the transfer of Berkeley and Jefferson counties, *contested upon the* grounds of invalidity of the popular election *upon the* question of annexation, mistake of fact, and *withdrawal of consent.* All else was conceded.

But, in the second place, as a matter of law, the concession of West Virginia's legal existence as a state was a necessary condition precedent to the bringing of the suit; the Supreme Court could not have entertained the suit without it.

First, because it would not otherwise have had jurisdiction of *the parties*. That court may entertain suits against "states," actual states, not bogus or pretended states.

Second, because it could not take jurisdiction at all of *the question* whether or not West Virginia was a lawful and existing state of the Union.

It is settled, in a line of well considered cases that, questions such as the admission of new states, the determination and recognition of the lawful government in a state, etc., etc., are "political questions," and exclusively within the province of "the political department" *i. e.*, the legislature, the Congress, (in some cases the executive also); and that the determination of these questions by the political department is not reviewable by the judicial department. Says Mr. Hare, in his work on American Constitutional Law, vol. 1, page 124: "That such questions are purely political, and do not belong to the province of the judiciary, sufficiently appears from the case of *Luther* vs. *Borden*, 7 Howard 1." The case cited by Mr. Hare, is the leading case, but there are others. For an excellent statement of the position and some strong reasons in support of it, see *Scott* vs. *Jones*, 5 Howard, 377–8.

All this is undeniable, but one inference from it must not be overlooked. The action of the political department upon such questions being final, and not reviewable by the courts, of course the *courts* cannot and do not say whether, in their opinion, in any given case of this class, Congress has or has not violated the constitution. The *Attorney-General* occupies a peculiar and a very different position in the Government. In some respects related to the judicial, he is more closely connected with the political department. It is his special province and duty to advise the executive, as to the *legal phase of* political questions. Accordingly, Mr. Lincoln *consulted* Attorney-General Bates when, in December, 1862, *the bill admitting* West Virginia, passed by both houses. came [illegible] *his* hands for approval; although, for reasons be

known to himself, he did not follow his opinion. Possibly the political considerations, as sometimes happens, outweighed the legal. But the people of the United States might do well to examine Mr. Bates' opinion. It may be found in Vol. X. of Attorney-General's Opinions, page 426, etc. It is thus epitomized by himself: "I am of opinion that the bill is not warranted by the constitution."

The syllabus is too long to print, and, in order that our synopsis of the opinion may be better comprehended, we here insert Section 3, of Article IV., of the United States Constitution, which is the provision involved.

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States without the consent of the Legislatures of the States concerned, as well as of the Congress."

The synopsis of Attorney-General Bates' opinion is as follows: Congress can admit only *existing states;* West Virginia did not exist till Congress admitted her.

The *letter* of the constitution either prohibits the formation of a state within the territory of another state, or else permits it with the consent of the legislatures of *both* the states concerned. Upon either construction, the admission of West Virginia violates the *letter.*

Even if the consent of the legislature of the parent state alone were sufficient, yet the *spirit* and *sense,* at least, require the consent of a legislature really representing the *entire state,* and not, as in this case, only *that part* which is to form the *new state.*

The question Mr. Bates raises, as to whether the constitution absolutely prohibits the formation of a new state within the jurisdiction of another state, or permits it with the consent of both the states concerned, is in some degree a question of punctuation. The section is punctuated above, as it is in most copies of the constitution, as it is in Mr. Madison's *notes, and in his papers* in the *Federalist,* i. e., with a semi-colon *instead of a comma,* after the words, "jurisdiction of another State." The bearing of this is obvious.

Those who care to look into the probable origin of provision will be interested in the examination and com ison of 11 Heming's Statutes-at-Large, pages 569-70 326, referring to Virginia's cession of the northwest t tory and the conditions she proposed—with two of Mr. M ison's papers in the *Federalist*, No. 38, page 299, and No pages 340-41. Our idea is that Section 3d of Article 4 the guarantee Virginia demanded, though in another f We think, that is, that the old guarantee demanded by ginia, is the origin of the clause of the present constitu which Attorney-General Bates' opinion discusses.

2d. In the Reconstruction Acts.

The right to pass these statutes was claimed by Con under what is termed "the guarantee clause" of the co tution, being Section 4th of Article 4th, which is in t words: "The United States shall guarantee to every Sta this Union a republican Form of government, and shall tect each of them against invasion; and, on applicatio the Legislature, or of the Executive (when the Legisl cannot be convened), against domestic violence."

The position and principle are precisely the same as al The question is a *political* one, and within the exclusive vince of the political department. We will not go into history of the efforts made to have the constitutionalit these laws tested. Any one who is interested can exa the cases for himself. The most important are *State of sissippi* vs. *Johnson*, 4 Wal., 475; *ex parte* McCardle, 7 W 506; and *Texas* vs. *White*, 7 Wal., 700. The McC case was never decided upon its merits, because, after it argued and submitted, Congress took away the jurisdictio the court. Some authorities regard *Texas* vs. *White* as tling the constitutionality of the acts. We do not regar as departing at all from the principle of *Luther* vs. *Bo* which it quotes with approval.

Our purpose is not in any manner to suggest the raisi any of these questions in the future. We regard ther *settled, upon* the distinct and conclusive ground that *courts cannot* entertain jurisdiction of them. But, f

ery reason, because the courts never have reviewed and ever can review the action of Congress in either of the momentous matters herein discussed, we deem it well the American people should for themselves examine the constitutional provisions involved, and the action of Congress in the premises, and pass their own judgment. We are happy, that, as to one of these questions, they may be aided, if not guided by the opinion of the legal adviser of President Lincoln's Cabinet.

ROBERT STILES.

CHAPTER IX.

RECONSTRUCTION IN WEST VIRGINIA.

THE history of the state of West Virginia during the reconstruction period does not differ greatly from that of the other border states. There was the same display of revengeful legislation, the same struggle of a minority to retain political power, that marked the transition between war and peace in Maryland, Missouri and elsewhere. The State Government being entirely in the control of the Republican party, and a full delegation of Republicans being present in both Houses of Congress, West Virginia was exempted from the operation of the reconstruction laws, and her people were left to deal with the problem of pacification in their own way, without interference by the Federal authorities and without much assistance from the tribe of carpet-baggers. The native Republicans were numerous enough to hold all the offices of value, and they were naturally averse to sharing the feast with strangers who came in after the fray. Hence the adventurers from Northern States, who played so conspicuous parts in the South in the years immediately succeeding the civil war, did not find a congenial field of operations in West Virginia and sought out other localities where the white Republicans were fewer and the negroes more numerous.

At the beginning of the war there was a strong Union sentiment among the people of the counties of Virginia now composing the state of West Virginia. There was a decided majority against the ordinance of secession; but after the war had actually begun, and the state of Virginia became the scene of conflict, very many of those who had voted against secession either enrolled themselves in the Confederate army or remained at home in either active or tacit sympathy with

the Confederate cause, so that in 1863 when the new state was formed, a large majority of the legal inhabitants of the counties embraced within its limits took no part in the transaction. Out of a voting population in 1860 of more than 50,000, the state of West Virginia started upon its career with the expressed consent and approbation of less than 19,000 votes. The Union sentiment was strongest in the counties lying along the Northern and Western borders, or along the line of the Baltimore and Ohio Railroad; it was weaker in the interior counties; while in the counties upon the Southern and Eastern borders it was almost non-existent, the people being practically unanimous in support of the Southern cause. According to the reports of the Adjutant-General, the state of West Virginia was credited with furnishing to the Union army, from first to last, a total of 31,884 men. Several entire regiments which are credited to West Virginia, were recruited in Ohio or elsewhere, and officered by Ohio men. During the last two years of the war, when large bounties were paid for enlistments to complete the quota of troops called for, the volunteers came almost entirely from abroad, and when substitutes were secured to take the places of conscripted men, these substitutes were for the most part obtained in Northern cities or were newly-arrived immigrants from abroad. It is now impossible to obtain any accurate figures as to the number of soldiers furnished to the Southern armies by the counties composing West Virginia. The muster-rolls have been lost or destroyed, and it is not known that any record even approaching completeness is now in existence. Recruiting was active in many of the counties at the beginning of the war; but when the Federal armies advanced in 1861, of course enlistment in the Confederate army ceased at all points within the Federal line, though it went on with increased activity and thoroughness in the counties not under Federal control, and it can scarcely be doubted that the total number of West Virginians who served at one time or another in the Confederate army exceeded by several thousands the number who espoused the Union cause.

These facts are mentioned here simply for the purpose of affording some clue to the relative strength of the parti

when the war closed and the era of reconstruction began. The returns of elections held at various times during the continuance of the war afford no trustworthy indication of popular sentiment. They are significantly one-sided, and show only that the people opposed to the party in power did not vote; not that they did not exist. The Constitution of 1863, and the officers elected under it, all derived their authority from a minority composed of scarcely more than one-third of the people of the state.

The Constitution of 1863 was, in the main, a fair, prudent and equitable instrument. True, it was afterwards warped by construction so as to tolerate the most proscriptive and unjust enactments, but that was the fault of the Legislature and the courts; the Constitution was right, but the courts were wrong. The Constitutional provision as to the elective franchise was contained in Section 1 of Article III. in these words:

"The white male citizens of the state shall be entitled to vote at all elections held within the election districts in which they respectively reside; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the state for one year, and of the county in which he offers to vote for thirty days next preceding such offer, shall be permitted to vote while such disability continues."

The Constitution declared in Section 6 of Article I., that, "The citizens of the state are the citizens of the United States residing therein."

These provisions are in the main similar to those relating to the same subject in the Constitution of Virginia and of other states, and the restrictions upon the suffrage are only those which are usually imposed. They are prospective in effect and attach to no crime a punishment which had not been ordained before the offence was committed, and the disability to vote is made contingent upon conviction of the crime.

The first Legislature held under the new Constitution adopted a number of "war measures," such as acts for

forfeiture of the property of persons engaged in rebellion, and various other sanguinary resolutions, but it did not attempt to restrict the suffrage further than is provided in the section of the Constitution quoted above. The general election law passed at this session provided that,

"The supervisor and inspectors at every election shall permit all persons to vote who are residents of their township and qualified to vote according to the first section of the third article of the Constitution."

If a voter were challenged, he might be required to take an oath to support the Constitution of the United States and the Constitution of the state of West Virginia—only this and nothing more—and this oath alone was to be exacted from officers of the state. But at the same session—that of 1863—the Legislature seriously damaged the Constitution which the members had so recently and enthusiastically adopted and sworn to support, by enacting a law in the following terms:

"Every person elected or appointed to any office of trust, civil or military, shall, before proceeding to exercise the authority or discharge the duties of the same, take the following oath: I, A. B., do solemnly swear that I will support the Constitution of the United States and the Constitution of this state; that I have never voluntarily borne arms against the United States; that I have voluntarily given no aid or comfort to persons engaged in armed hostility thereto, by countenancing, counseling or encouraging them in the same; that I have not sought, accepted, nor attempted to exercise the functions of any office whatever, under any authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or Constitution within the United States hostile or inimical thereto; and that I take this obligation freely without any mental reservation or purpose of evasion."

This is the first appearance of the famous test-oath upon the statute books of West Virginia. It appeared a great many times *afterwards: sometimes* with additional clauses or with carefully drawn *limitations*; but always in its main features was the same. Having set it out in full here, it will be he

after referred to simply as "the test-oath" and will not be again presented in its entirety.

At the election held in the fall of 1864 there was very little opposition to the Republican candidates. A McClellan electoral ticket was put in the field a few weeks before the election, but it was voted for in only a few of the counties, and Mr. Lincoln carried the state, receiving 23,233 votes as against 10,437 votes cast for the Democratic candidate. There was no opposition to the Republican ticket for state officers. But the vote cast for McClellan, small as it was, seems to have alarmed the Republican politicians. The war was nearly over and it was apparent to all that the unequal combat must soon end in the triumph of the Federal arms. Already the Confederate armies were rapidly disintegrating. The rebels were coming home; not in battalions, nor even by squads; but singly and quietly they were seeking to rebuild their desolate homes and take their places in the ranks of peaceful avocation. There was nothing in the Constitution or laws of the state that could prohibit them from voting. There was danger that the will of the majority might be expressed at the polls; that the people, who are the source of all lawful authority in a government republican in form, might come to claim their own.

In this emergency the Legislature, on the 25th of February, 1865, proceeded to amend the election law which had been adopted in November, 1863, by providing that if the right of any voter were challenged at the polls, he should not be allowed to vote until he produced an affidavit, duly sworn to before and attested by a notary or other officer authorized to administer an oath, in which the unlucky citizen was required to swear that he had never voluntarily borne arms against the United States, "the reorganized government of Virginia," or the state of West Virginia, etc., etc., after the style of the test-oath for officers set forth above. Just why the voter was required to purge himself of any *past hostility to* the reorganized government of Virginia seems *rather difficult to* understand at this distance of time. The *government of* Virginia was reorganized at Wheeling f *he purpose of giving* its consent to the formation of the r

state, and thus technically complying with one of the requirements of the Federal Constitution, and when that consent was given, the reorganized government took itself away to Alexandria and concerned the people of the state no more. Whether any human being ever bore arms against the reorganized government of Virginia who did not at the same time bear arms against the United States, to say nothing of the state of West Virginia, would have puzzled even the framers of the law to find out. But the phrase has a solemn jingle and hence was repeated in full in every clause of the oath.

It was immediately pointed out and contended by those who had regard for popular rights that the amendment to the election law was plainly and flagrantly in violation of the Constitution; that the Legislature had no power to pass such an act; and that the members who voted for it had deliberately and with full knowledge violated their oaths. In reply, the Republican members said, in effect, We know it is unconstitutional, but we mean to amend the Constitution itself in conformity with the act, and in the mean time we will enforce the amended law. Accordingly, on the 1st of March, 1865, the following amendment was proposed, to be added to the first section of Article III.:—

"No person who, since the first day of June, 1861, has given, or shall give voluntary aid or assistance to the rebellion against the United States shall be a citizen of this state or be allowed to vote at any election held therein, unless he has volunteered into the military or naval service of the United States, and has been, or shall be, honorably discharged therefrom."

The mode of amendment fixed by the Constitution required the proposition to be agreed to by a majority of each house of the Legislature; published in each county for three months before the next general election; agreed to a second time by both houses of the Legislature, and then submitted to a vote of the people, and if a majority of the qualified voters voting upon the *question* ratified the proposed amendment it became of force "*from the time of such ratification*, as a part of the *Constitution of the state.*"

The Legislature elected in the fall of 1865, by excludi

the votes of those who could only be lawfully excluded from the ballot after the proposed change had been made in the Constitution, met in January, 1866, and, on the 13th of February assented the second time to the proposed amendment, and provided for submitting it to a vote of the people at the election to be held for school and township officers on the 24th of the following May.

But the Legislature of 1866 went much further than any of its predecessors in the destruction of popular rights; in the establishment of an oligarchy; in the erection of a privileged class, in whom alone the power of government should reside. Fearful lest the election officers should fail to enforce the confessedly unconstitutional act of 1865 relating to elections by the people, they vested in the hands of the Governor of the state the right of the people to vote and enabled him to control the franchise. They went about it in this way: An act was passed for the registration of voters; a board of registration was to be appointed by the Governor in each county, consisting of three persons "from among the citizens most known for loyalty, firmness and uprightness;" the board was to appoint a registrar in each township, whose duty it was to place upon the roll of voters only those citizens who could take the test-oath. The township registrar was removable by the board of registration, and the board of registration was removable by the Governor. It was thus possible for the Governor to supervise the rights of every citizen, from the highest to the lowest. If a registrar was found to have scruples as to the exclusion of his neighbors from the polls, he was promptly removed and a more serviceable man appointed by the board of registration, and if the board became frightened by the prospect of being called upon to defend suits at law, the Governor could always be relied upon to remove any man who hesitated to do the work assigned to him. In fact, the whole machinery of registration was practically subject to the absolute and arbitrary will of the Governor; and when it is known that by subsequent enactments nearly *all of the civil* rights of the people were made dependent *upon the registration*; that the man who was not a regis*tered voter* was practically under sentence of outlawr

some idea of the vast power given to the Governor may be conceived.

During the year 1865, there had been much discussion in the newspapers and at public meetings as to the duty of election officers. It had been insisted that the amendment to the general election law could not be regarded as valid and that whoever enforced it or acted under it did so at his own peril. The supervisors and inspectors were threatened with suits for damages if they refused the ballot of any voter who possessed the constitutional qualifications. It was contended that a void act was void from the beginning and never could have any validity whatever, and therefore it could not protect the officer who enforced it. But in order to stiffen and encourage the officers, the Legislature provided that all suits brought against them for acts done in obedience to the unconstitutional law should be defended at public expense, and on the 17th of February, 1866, an act was passed "to prevent and punish the forcible or unlawful obstruction of public justice," by which it was provided that "no officer in the lawful discharge of his official duty under any act of the Legislature, or any order or proclamation of the Governor of this state shall be deemed personally responsible therefor (either civilly or criminally) by reason of such act, order or proclamation being afterwards adjudged by any Court of this state to be unconstitutional and void."

The same Legislature required all the supervisors and inspectors of election to take the test oath before entering upon the discharge of their duty, and provided that "in no case shall the votes taken at any place of voting be counted unless said oath so appear on the poll books."

Having thus arranged the election law so as to enforce before ratification the constitutional amendment which they wished to adopt, the Legislature proceeded to punish the members of the bar who had dared to call in question the validity of their acts, and on the 14th of February, 1866, it was enacted that no attorney-at-law should be allowed to *practice in any court*, or before any justice or board of supervisors *until he had* taken a test-oath that he had not "*since the twentieth* day of June, 1863" borne arms again

the United States, etc. The date inserted in the oath was the date of the formation of the state of West Virginia, but why attorneys were limited to that date while voters were required to swear that they had not been engaged in hostility since the first day of June, eighteen hundred and sixty-one, and officers were compelled to declare that they had *never* borne arms against the United States, does not clearly appear. The attorney's test-oath inflicted a great hardship upon a large class of citizens, and produced much unhappiness and discontent. It was frequently brought into question before the courts, as will be mentioned hereafter.

Prior to the election of school and township officers, held on the 24th of May, 1866, there was an active and exciting canvass. The war was over, hostilities having entirely and forever ceased during the preceding summer. The Confederate armies had been disbanded, but the fury of the Republican politicians seemed to gather strength from the absence of physical danger. The Boards of Registration were appointed; township registrars were designated, and the work of disfranchisement was formally begun. Not content with excluding all who were not willing to take the test-oath, the registrars doubted the loyalty of nearly every citizen who was known to be opposed to the arbitrary measures adopted by the Legislature, and assumed the right to refuse to register many who produced before them the affidavit required by the law. An appeal to the Board of Registration was permitted to any person aggrieved by the action of a township registrar, but in most cases the appeal was but a prolongation of the farce. The Boards of Registration and the registrars were all of the same party, and it was found difficult to procure in many of the counties respectable citizens who would consent to engage in the odious task; but where men of honor and high standing could not be found, the Governor was content to entrust the administration of the law to persons less scrupulous, *and so the work* was done. When the vote upon the proposed constitutional amendment had been cast and counted, it was declared that 22,224 votes had been given for ratification, and 15,302 for rejection, and that the amendmer

was therefore ratified and in full force as a part of the Constitution of the state. If the law under which the amendment was submitted was constitutional, there was no necessity for the amendment; if the election law was unconstitutional and void, then the amendment had not been legally ratified.

The party in power now felt that it had gained a new lease of existence and that the way was open for the adoption of any further proscriptive measures which might be deemed desirable, while the opponents of proscription saw in the large vote which, in the face of many obstacles, had been cast for rejection of the amendment the nucleus of a party which they felt sure would grow. At the state election in the Fall of 1866, the Republican ticket received 23,509 votes as against 16,791 for the opposition.

The Legislature which assembled in January, 1867, was, as might have been expected, more bitter and vindictive than any of its predecessors. An act passed February 19, 1867, required all jurors empannelled for the trial of cases, civil or criminal, to be registered voters. An act passed February 27, 1867, provided that no person, male or female, could be employed as a teacher in any of the public schools until he or she had taken the test-oath. Another illustration of the blind rage of this Legislature is found in a solemnly enacted law that no Virginian should be permitted to collect a debt due to him from any citizen of this state: the benefits of the act, however, were to accrue only to the loyal people and any person who could not take the test-oath might be sued by a citizen of Virginia in the old-fashioned way.

On the 25th of February, 1867, a new act was passed for the registration of voters and the former one was repealed. This may have been done through some apprehension lest the act of 1866 might be set aside because of its having been passed before the ratification of the amendment to the Constitution. The new law was more stringent in its obnoxious features than the old one had been. If the registrar "doubted the *loyalty" of any applicant* for registration, he required him to *take the test-oath; but* this was not to be considered conclu*sive. The applicant* was required to "make it appear th

he is (was) a qualified voter," but if he failed so to make it appear, his application was rejected. He might then appeal to the board and try to "make it appear" that he was entitled to registration, but such appeals were usually in vain. The members of the board might also, upon their own motion, strike off the name of any registered voter whom they might think not entitled to vote—a power which they exercised freely and without scruple. The citizen who was summoned to show cause why his name should not be stricken from the list of registered voters might as well abandon hope at once. How could he make his right appear "to the satisfaction of" a tribunal by which he was condemned already? If the board of registration said "we doubt your loyalty," of what avail was the testimony of witnesses on behalf of the accused? In some instances honorably discharged soldiers of the Union army were disfranchised because they voted against the faction in power, and the boards of registration therefore "doubted their loyalty." It was a matter of party necessity to keep down the growing strength of the opposition, and behind the registrars and boards of registration, goading them on in the work of disfranchisement, loomed the awful form of the Governor who was either a candidate for re-election or for a seat in the Senate of the United States.

The Legislature of 1867 left but little in the way of proscription and intolerance to be enacted by its successor in 1868. But on the 2nd of March, in the latter year, it was enacted that no interest upon any debt contracted prior to the 1st day of April, 1865, should be recoverable in any action for the time during which the creditor had been within the Confederate lines. It was also enacted that no suit or action, civil or criminal, should be maintained against any person "for any act done in the suppression of the late rebellion." The registration law was amended so as to provide for the punishment of boards of registration who had stricken off names improperly; an abuse of power which had become so serious and so flagrant as to alarm even a Republican Legislature. *A joint resolution* was passed declaring that "Andrew Johnson, *President of* the United States, in the attempted removal *of the Secretary of* War, and the designation of the Adjutant

ral to perform the duties of the office *ad interim*, the
te being in session, has been guilty of a wilful and fla-
; violation of law, and in the opinion of the Legislature
est Virginia, ought to be impeached for high crimes and
emeanors." The Governor was authorized to tender to
ress the assistance of West Virginia in sustaining the
rity and enforcing the laws of the United States.
special session of the Legislature was held commencing
ne, 1868, and continuing during the remainder of the
The chief business transacted was the adoption of a
which gathered into a compact and convenient form the
red enactments of the past five years. Very little politi-
gislation was attempted. The registration act was further
ded so as to provide that no person whose name had
stricken from the list by the board of registration could
wards be registered, except by consent of the board. A
er of special acts were passed permitting attorneys to
ice law without taking the test-oath; and one was passed
rmit a young lady to teach school without taking the
but in this case the Legislature cautiously and prudently
ved the right to alter or repeal the act whenever in their
etion they might think proper to do so—evidently in-
ng to recall the magnanimous act if the young lady
ld dare to engage a second time in armed rebellion
st "the reorganized government of Virginia," &c.
the state election held in the fall of 1868, there were
35 Republican votes, as against 21,698 conservative and
ocratic.
1869 a number of acts for the relief of attorneys were
d, and on the 7th of February, 1870, the act requiring
neys to take the test-oath was formally and finally
led. The Legislature in 1870, also repealed the act
h required the petitioner for a rehearing to take the test-
when decree had been rendered against him in his
nce and without personal service of process. The same
slature proposed what was afterwards known as "the
k *Amendment," from* the name of its patron, restoring
onstitutional provision as to the qualifications of voters
terms originally embodied in Section 1, Article 3, of

the Constitution of 1863, omitting the word "white." This was the last Legislature in which the Republican party had a majority, for, at the election held in October, 1870, the Democratic and Conservative party carried the state casting 28,020 votes as against 26,475 given for the Republican nominees. It will be observed that the Republican vote was only 410 less than that in 1868, which was the highest point it had ever reached. It was larger than that of 1864 or 1866, the period during which all of the odious and oppressive legislation had been had; the period during which an aggressive and unscrupulous minority of the people of the state had been enabled to rule the majority with an iron hand.

From first to last there was expended for the expenses of the registration of voters and for the defense of suits instituted against registrars and boards of registration the sum of $53,200, not including the sums expended from the Governor's contingent fund the items of which were not made public. Nor does this total include $500, which was paid to William Ware Peck, a lawyer who was imported from somewhere in New York, to assist the Attorney-General in excluding native attorneys from practicing their profession.

The acts of the Legislatures in West Virginia, to which attention has been directed in the preceding pages, were mainly those relating to the right to vote, but the acts affecting the property rights of the ex-confederates were, perhaps, more severely felt. In accordance with the terms of an act passed February 28th, 1865, no person could bring suit or obtain process in any court without being required to take the test-oath if it was demanded by the defendant. This completely closed the courts against any Southern soldier who sought redress for injuries or for the collection of a just and valid debt. During the later years of the war, a great many suits had been instituted against persons who were within the lines of the Confederate army. Proceedings were had by order of publication and when the defendants failed to appear attachment was issued and property was seized. As the general law relating to attachments and suits against non-residents then stood, the party against whom these summary proceedings were had might come into court at any time within fiv

years and file his petition asking that the judgment, order or decree obtained by default of appearance might be set aside and a hearing had as to the matters in controversy. But to the ill-starred ex-confederate was conceded no such right. Only the man who could take the test-oath was permitted to have his case reheard. Thus the soldier who came back, after the surrender at Appomattox, and found his property in the hands of strangers, could not only not sue, he could not make defense to the action which had been brought against him in his absence and without his knowledge. But this was not all. If any property remained to him, he became a target for what were known as "war trespass suits," and judgments were piled up against him, as fast as courts could render them, at the demand of importunate suitors. If, during a raid of Confederate soldiers within the borders of West Virginia, while the war was in progress, the cattle or horses or goods of any loyal citizen were seized for the use of the army, and consumed or carried away, the person so injured brought a "war trespass suit" against any ex-rebel he could find who had any property left. It was not at all necessary that the defendant should have been one of the company or squad who captured the goods; it was not necessary that he should have been present in any capacity at the time when and place where the offense was committed; it was not necessary that he should have been in the confederate service at all; judgment was invariably rendered against him for whatever amount a "loyal" jury might assess. For the greater convenience of plaintiffs and for the greater certainty of obtaining judgment in cases of this kind, it was provided that suits for causes of action arising in certain counties where Southern sentiment prevailed might be brought in other counties where popular opinion against injustice was not so strong. As has been already stated, no person could sit on a jury without having taken the test-oath, but it was feared that juries might be overawed or influenced by the indignation of their neighbors, and hence the trespass suits were generally brought remote from the home of the defendant, in some county where the Republicans were aggressive and had full control, and were still carrying on the war.

The condition of the ex-Confederate soldier in West Virginia during the five years which immediately followed the end of the war, was, therefore, reduced to this: He was denied citizenship in the place of his birth; he could not hold office; he could not vote; he could not practice law; he could not sit as a juror; he could not teach school; he could not sue in the courts; he could not make defense to suits brought against him in his absence, and at least one of the circuit judges held that he could not qualify as an executor or administrator, and hence when he died he must commit to a Republican neighbor for distribution, whatever estate he had been able to save from the rapacity of those who had sued him for offenses for which he was not guilty.

But the student of these legislative acts may well inquire: Where were the courts during all this period and why were they not invoked to protect the people? The answer is found in the first five volumes of West Virginia Reports. The courts went hand in hand with the Legislature; whatever one did the other pronounced good. There is not a single instance during all the period between 1863 and 1870 in which an act or a section of an act, passed by the Legislature, was pronounced unconstitutional by the Supreme Court of Appeals. There were plenty of cases; the power of the court was very frequently invoked; but no ex-Confederate was ever relieved from the unjust judgment which had been rendered against him in the inferior tribunals. The Circuit Courts were completely under the control of the Legislature. One circuit judge was impeached and removed from office because he had appointed an ex-Confederate to be the temporary sheriff of one of the counties in his circuit; another was impeached and removed because he had permitted three distinguished lawyers to practice in his courts without taking the Attorney's test-oath. Other judges took warning and treated the legislative body with marked deference. The several statutes imposing disabilities upon the returned Confederates *were, one after* the other, as they came under review by the *Supreme Court* of Appeals, sustained, and these decisions *were many times* repeated during the years between 1866 *and 1871.*

William Stratton's case, (1 W. Va., 305), the court sus-
the constitutionality of the test-oath for officers.
Lively *vs*, Ballard, (2 W. Va., 496), the court sustained
nstitutionality of the test-oath for jurors.
Randolph *vs.* Good, (3 W. Va., 551), the act of Febru-
, 1865, requiring voters to take the test-oath, passed
the Constitution of 1863 had been amended, was de-
constitutional by the court.
ex parte Hunter *et al.*, (2 W. Va., 122), the court af-
the constitutionality of the test-oath for attorneys.
Higginbotham *vs.* Haselden & Rohrbaugh, (3 W. Va.,
e court sustained the validity of the test-oath for suitors,
tended its operation to the right of obtaining an appeal,
f error or supersedeas.
decision by the Supreme Court of the United States
he Prize Cases," at December term, 1862 (2 Black.,
vas generally understood by the members of the legal
ion, as conceding to the armies of the Confederate
"belligerent rights." This construction was amply
ed by many subsequent decisions of the Supreme
in which reference was made to the cases mentioned.
S., 594,605; 100 U. S., 158 and cases cited.) It was
ession made necessary by the dictates of humanity and
tion in view of the magnitude of the war and its long
n. Under the doctrine of "belligerent rights,"
of the combatants can afterwards be held liable,
ivilly or criminally, for any act done "in accordance
he usages of civilized warfare." But the decisions of
preme Court in this regard were nullified in West Vir-
Again and again was the plea of belligerent rights
d in bar of the trespass suits which sprang up plenti-
gainst the returned soldiers of the Southern cause, and
was the plea overruled and the doctrine denied. The
ng are a few of the cases in which the Supreme Court
eals in West Virginia reversed the Supreme Court of
ited States upon this question alone: Hedges *v.* Price,
Va., 192; Cunningham v. Pitzer, Idem, 267; Lively v.
Idem, 496; Echols *v.* Staunton, 3 W. Va.
perton v. Martin, 4 W. Va., 138; French

White, *Idem*, 170; Caperton *v.* Nickell, *Idem*, 173; Caperton *v.* Bowyer, *Idem*, 176; Carskadon *v.* Johnson, *Idem*, 356; Caperton *v.* Ballard, *Idem*, 420. Commenting upon some of these cases, the learned reporter of the American Decisions, Vol. 94, p. 325, remarks: "The court seems rather to have been actuated by a desire to exhibit its patriotism than to consider the question presented to it calmly and judiciously and to give its decision accordingly."

In the case of Hood *et al. v.* Maxwell, (1 W. Va. 219) the owner of a mill in Barbour county sued Hood, who was a commissary of Virginia troops acting under the orders of Governor Letcher, for the value of a lot of flour taken for the use of the troops in 1861. The cause of action arose in Barbour county, but the case was tried in Marion county and a judgment was rendered for $1516.25. A writ of error was taken and the Supreme Court of Appeals affirmed the judgment in 1866. The sixth point in the syllabus is as follows: "No state in the Union has a constitutional right to secede from it."

Ashby's cavalry came into the village of Hardscrabble in Berkeley county on the 10th of September, 1861. Henry Shepherd and John Shepherd were private citizens residing in the neighborhood and not in any manner engaged in the Confederate service. Ashby's men seized the goods in a store belonging to A. R. McQuilkin, and Abraham Shepherd, one of the cavalrymen, gave to his father, Henry Shepherd, an umbrella taken from the store. Another of the soldiers gave to John Shepherd a straw hat. Suit was instituted against Henry Shepherd and John Shepherd and judgment obtained for $500, the value of all the goods taken, and this judgment was affirmed by the Supreme Court of Appeals.

John Cunningham was sued in the Circuit Court of Berkeley county by H. B. Pitzer, for taking and carrying away two hundred bushels of wheat belonging to the plaintiff. It *was shown that* the wheat was taken by the Confederate *army, and threshed* on Cunningham's machine, and that *Cunningham* was forced by the soldiers to assist in thresh*ing the wheat.* Judgment was rendered against Cunning-

ham for $287, with interest from the 26th day of August, 1864; and the judgment was affirmed.

On the 24th of October, 1862, a man named Mace took from Malden, in Kanawha county, thirty barrels of oil belonging to J. G. & J. M. Staunton. Mace was acting under orders of E. McMahon, then acting as Chief Quartermaster of the Confederate army commanded by General W. W. Loring, and there was evidence tending to show that the oil was seized by order of Loring, issued while in command. On the 15th of October, General Loring was relieved of command, and General John Echols was placed at the head of the army in the Kanawha valley. The oil was taken away and delivered to Thomas L. Broun, at Dublin Depot, for the use of the Confederate government, Broun being then a quartermaster in the Confederate army. In July, 1865, the Stauntons instituted suit in Kanawha county against John Echols for $1935, the value of the oil so taken and carried away. Judgment was rendered for $1935, and that judgment was affirmed by the Supreme Court of Appeals.

On the 28th day of October, 1862, Nicholas Martin was arrested in Monroe county, by Confederate soldiers, and taken as a prisoner to Richmond. In June, 1866, Martin instituted suit for illegal arrest and false imprisonment against Allen T. Caperton who had been Provost Marshal of the Confederate forces in Monroe county at the time of the arrest. The defendant plead the statute of limitations in force in Virginia when the offense was committed, "belligerent rights," and a pardon of the President of the United States. The case was tried in November, 1867, and judgment was rendered against Caperton for $600, and this judgment was affirmed by the Supreme Court of Appeals, at the January term in 1870.

On the 28th of November, 1864, General Rosser's brigade of Confederate soldiers took the town of New Creek, then a military post of the United States, fortified and garrisoned by about 1200 troops under command of Colonel Latham, most of whom were captured, although some fled and escaped. Among the prisoners taken was John R. Carskadon, a farmer living in the neighborhood, a Union man but not in

service. He was held as a hostage for James Parker, also a non-combatant, who had been arrested by United States soldiers some time before, and was then confined in the military prison at Wheeling. In 1865, Carskadon instituted suit for trespass, and assault and battery against George H. Johnson, who was a private soldier in Rosser's command and one of the squad who made the arrest. The Circuit Court sustained a demurrer to the evidence, but this decision was overruled by the Supreme Court of Appeals, in 1870, and judgment rendered against Johnson for $450.

The foregoing are merely samples selected at random from the cases reported in the first five volumes of the West Virginia Reports. The appealed cases were not a tenth of the whole number of these trespass suits which were successfully prosecuted in the Circuit Courts. Nearly every ex-Confederate soldier was financially ruined by them, and even if he had no property out of which the judgment might be then satisfied, the judgments stood upon the dockets as a lien against all that he might thereafter by diligence and economy acquire.

Before dismissing this part of the subject, the professional reader may feel some interest in learning what became of these judgments obtained by "war trespass suits," when the minority was hurled from power in West Virginia and the people assumed the right to govern themselves. Article VII. of the Constitution adopted in 1872, section 35, is in these words:

"No citizen of this state who aided or participated in the late war between the government of the United States and a part of the people thereof, on either side, shall be liable in any proceeding, civil or criminal; nor shall his property be seized or sold under final process issued upon judgments or decrees heretofore rendered, or otherwise, because of any act done in accordance with the usages of civilized warfare in the prosecution of said war by either of the parties thereto. The *Legislature shall* provide, by general laws, for giving full *force and effect* to this section by due process of law."

The Legislature at the sessions of 1872–73, provided that *upon the filing* of a petition setting forth the fact that a jud

ment or decree had been rendered against the petitioner for acts done in accordance with the usages of civilized warfare, such judgment or decree should be set aside and a new trial awarded, but the Supreme Court of Appeals in Peerce *vs.* Kitzmiller (19 W. Va., 564), held that this mode of procedure was not "due process of law," but it also held that the relief sought for might be obtained by a proceeding in chancery for an injunction against the execution of the original judgment and that this would be "due process of law." The mode of procedure thus indicated was pursued and the judgments and decrees complained of were set aside by the Circuit Courts. The action of the Circuit Courts in thus setting aside these judgments was in several cases appealed from and sustained by the Supreme Court of Appeals. David Freeland had recovered a judgment in 1865, against Joseph V. Williams for $1,110, for cattle carried away for the use of the Confederate army, and this judgment had been affirmed by the Supreme Court of Appeals at the July term in 1867. The judgment remained unsatisfied, and in August, 1883, Williams filed a bill in chancery praying that the judgment be declared void and that Freeland be perpetually enjoined from collecting the same. The relief prayed for was granted by the Circuit Court and Freeland then presented to the Supreme Court of Appeals a petition for appeal in the manner provided by law, which petition was refused, and thereupon Freeland appealed to the Supreme Court of the United States. On the 13th of May, 1889, the opinion of that court was handed down by Mr. Justice Miller, in which it is held that the provision in the West Virginia Constitution of 1872, in relation to judgments or decrees rendered because of acts done according to the usages of civilized warfare "does not impair the obligation of a contract within the meaning of the Constitution of the United States, when applied to a judgment previously obtained, founded upon a tort committed as an act of public war." Also that "a bill in equity to invalidate a judgment obtained against the defendant for a tort committed under military authority, in accordance with the usages of civilized warfare and as an act of public war and to also enjoin its enforcement is 'due p

cess of law,' and is not in conflict with the Constitution of the United States." (131 U. S., 405.)

A full report of the action of the courts in relation to the attorney's test-oath would be too voluminous for the purposes of this chapter. A few cases must suffice.

Andrew Hunter, Samuel Price, W. S. Summers, Samuel Miller and Caleb Boggess applied to the Supreme Court of Appeals, at its July term, in 1866, for permission to be admitted to practice law without being required to take the test-oath for attorneys provided by the act of the Legislature, passed February 14th, 1866. Several of the applicants produced pardons signed by the President of the United States. The questions involved were elaborately argued *pro* and *con.*, and the Court took time to consider. At the January term, 1867, the decision was announced, denying the application. The syllabus declares that the act imposing the oath is not unconstitutional, and that a pardon from the Federal Government cannot remove a disability imposed by the laws of West Virginia. (2 W. Va., 122.) The opinion in the case occupies forty-six pages of the volume of reports. Shortly before this decision was announced the Supreme Court of the United States had handed down its opinion in the Garland case (4 Wallace, 333), in which an act of Congress passed January 24, 1865, prescribing a test-oath for attorneys practicing in the Federal court was held to be *ex post facto*, and, therefore, in violation of the Constitution of the United States and null and void. This decision, by the highest court in the United States, was brought to the attention of the Judge who had already prepared his opinion denying the petition of the attorneys, and, not willing that so much labor should be thrown away, the learned Judge added a few lines to the essay, remarking, "After a careful examination of that decision, as furnished, I am constrained to adhere to the opinion already advanced." This performance so delighted the partisan majority in the Legislature, then in session, that it, by *joint resolution*, ordered five thousand copies of the opinion to be printed in pamphlet form for distribution by the members.

As late as January, 1870, William A. Quarrier and Nicholas Fitzhugh applied for admission to practice without taking

the test-oath, and produced pardons signed by the President of the United States, but the application was denied, the Court holding that, although the President's pardon might entitle the attorney to practice in the Federal courts, it could not restore to him the right to practice in the courts of West Virginia. (4 W. Va., 210.) In this case Edwin M. Stanton, "the great War Secretary," appeared in opposition to the prayer of the petitioners, and harangued the Court for an hour upon the theme that rebels had no rights which loyal men should respect. It was an appeal which Judge Nash, of Ohio, himself an ardent Republican, pronounced a disgrace to the distinguished man who had uttered it, and a shame to the Court that had listened to it without rebuke.

The action of the Circuit and District Courts of the United States in West Virginia was in honorable contrast with that of the state judiciary. A great many indictments for treason were found by the grand juries, but not one of them ever came to trial. They were continued from term to term, in anticipation of the subsidence of popular prejudice and passion, and eventually all were dismissed. The returned confederates took the oath of amnesty required by the President's proclamation of May 29th, 1865, and were no further molested by the Federal authorities. Attorneys who were debarred from appearing in the state courts met with no obstacle to the resumption of practice in the tribunals of the United States, the state authorities being much more fierce and vindictive in the punishment of rebellion against the United States than was the power against which the offense was mainly committed.

But no history of the reconstruction period in West Virginia would be complete without some reference to the part played by Nathaniel Harrison, Judge of the Seventh Judicial Circuit. This circuit embraced the counties of Greenbrier, Nicholas, Monroe and Pocahontas. It has a large area in the southern part of the state and nearly all of the inhabitants were either in active service in the Confederate Army or aided and abetted the Southern cause. During a considerable portion of the period of the war the counties mentioned were within the lines of the Confederate Army

Of course, public sentiment was overwhelmingly Southe
In these counties the registration law displayed its
power and operated in all its beauty. Enough
were found or imported who, by the help of an imp
fect memory or a flexible conscience could, or rat
did, take the test-oath and hold all the offices. Occasions
the registrar would "doubt the loyalty" of one of the re
tered voters and strike his name from the list, and then
render him incapable of holding office, when all of
official power and perquisites he possessed would be parce
out among the remnant of the faithful. In the town
Lewisburg so many names had been from time to time era
from the list that the registrar gained the *soubriquet* of "
Scratch," by which he was commonly known, and the vot
population had been reduced to seven: "Old Scratch"
his son, two Irishmen and three negroes. The registrar h
nine petty offices. Of this circuit Nathaniel Harrison
appointed Judge in 1865 by the Governor of the state. H
rison was descended from a good family in Virginia and
resided several years in Philadelphia just before the war.
was a man of more than usual mental ability and was v
versed in the law. Some time after the opening of the
he went through the lines and appeared in Richmond.
solicited appointment on the staff of General Chapman
the Virginia militia; not getting this he sought position
the quartermaster's department of the Confederate Arn
not succeeding in this he sought employment in the bur
of exchange of prisoners of war and again failed of succ
Disappointed and soured and attributing his ill success to
opposing influence of Allen T. Caperton, who was at t
time a member of the Confederate States Senate, he drif
into Monroe county where his wife owned the Salt Sulp
Springs property, and where he continued to reside until
appointment as Judge. Not thinking it probable that
record would ever be brought up against him when posses
of the power of oppression which the office would give h
he took the test-oath, entered upon his duties as Judge,
straightway out-Heroded Herod in his persecution of
returned Confederates. He seems to have been esp

determined to ruin Mr. Caperton against whom he instigated and decided not less than a hundred trespass suits. In every county in the circuit he breathed forth threatenings and slaughter and spread consternation and dismay. He was notoriously licentious in his mode of life and it soon became known that he was also corruptible in the administration of his public office. But his persecution of the ex-rebels won for him the high regard of the state Government and the enthusiastic admiration of the Legislature. The Supreme Court of Appeals at that time consisted of three judges, and the law provided that when any one of the three was absent by reason of sickness, or was in any other way incapacitated from duty in court, a circuit court judge should be called in to take his place. Nat. Harrison made it convenient to attend at many of the sessions of the Court of Appeals and was frequently called upon to sit as one of the judges of that high tribunal, and in that capacity participated in rendering some of its most obnoxious decisions. In January, 1866, Col. Hounshell, who had been in the Confederate service, went to the seat of Government, at Wheeling, where the Legislature was sitting, with formal charges against Harrison, accusing him of disloyalty to the Government of the United States, maladministration of the duties of his office and perjury. The charges were presented in the House of Delegates on the 7th day of February by Col. Dan. Johnson, a gallant and honorably discharged soldier of the Federal Army, who offered a joint resolution for the impeachment of the accused in the manner provided by law. So indignant were the members that an ex-Confederate officer, who did not come "with bated breath and whispering humbleness," should be permitted thus "to rail upon the Lord's anointed," that Col. Hounshell, who was in the lobby of the House, was violently assaulted by three or four stalwart individuals and forcibly and unceremoniously kicked, beaten and thrust down the stairs and out of the building. On the next day the following resolutions, here copied *verbatim*, were offered and *adopted under a suspension* of the rules:

"*Resolved, That this* House deplores the disorderly scene that occurr *in the hall immediately* after adjournment last evening, growing

of the introduction of a paper which was deemed by this House a *malicious attempt* to publicly slander one of the circuit judges of the state, aggravated by the haughty bearing and insulting language of the author of said slanderous paper towards the members of this House while in the hall. The sergeant-at-arms is instructed to be vigilant in the preservation of the peace, and ejection of all improper persons from this hall in future."

"*Resolved*, That no farther action be taken in the subject of the said slanderous paper, but to return it to its author, if to be found, through the sergeant-at-arms."

The first attempt at the impeachment of Harrison having thus tragi-comically failed, he went back to his circuit with some new revenges to gratify and more firmly seated than before. He owned an interest in a little weekly newspaper called the *Monroe Republican*, and he required all legal advertisements from all the counties in his circuit to be published in that paper. He advised litigants to employ a particular attorney whom he favored and from whom he received a share of the fees. He appointed a receiver of the circuit courts of Greenbrier and Monroe, and allowed him a commission of two per cent. more than was allowed by law, and this two per cent. was believed to be the perquisite of the judge. He borrowed for his own use, funds officially held by the receiver, and gave no security. He signed in his official capacity, the petition of an ex-Confederate to the President of the United States for a pardon, and received three hundred dollars therefor. He took jurisdiction of cases in which he was himself a party interested. He advised the defendant in an action brought by a plaintiff whom he hated, to bring the case on for trial at a particular time promising to have a special jury summoned for the purpose of finding a verdict for the defendant.

All this and more. He was openly intemperate and lewd; wherever he went he sought the society of prostitutes, and at nearly every place of holding court he had a negro mistress.

By the grace of the registrars he was elected in 1868, his term of appointment having expired, and he then began to *punish those* who had opposed his election. A clause of the *Constitution* provided that, "No person except citizens *entitled to vote*, shall be elected or appointed to any state, *county or municipal* office." Accordingly Judge Harris

d "Old Scratch" to erase from the list of registered
the names of Joel McPherson, clerk of the circuit
of Greenbrier County; Wallace Robinson, sheriff of
ounty; G. A. Lewis, recorder, and Alexander Walker,
rvisor of one of the townships. He then declared the
of these several gentlemen vacant, and proceeded to make
ıtments to suit himself. The outraged officials imme-
' appealed to the Supreme Court and were reinstated,
r some time after the order of the Supreme Court had
ent down, Harrison refused to recognize the officers thus
d.

xander Walker who was a Northern man, a Republi-
ıd a member of the bar, at last resolved to aid in a
tempt for the impeachment of the judge. He was col-
; some evidence in relation to the matter when, on the
f January, 1870, Harrison came into court with a rule
y prepared summoning Walker to show cause why he
not be disbarred for unprofessional conduct, in soliciting
its concerning the judge's personal habits. Walker
d service of the rule, and asked that he be allowed
-four hours in which to procure an affidavit to be used
defense. The judge would listen to no delay and di-
the clerk to enter at once an order which had been pre-
beforehand, disbarring Alexander Walker, and revoking
ense as an attorney. Walker went to the Supreme
of Appeals and the order was reversed and annulled.
this time the Republican party in the state found Judge
Harrison a pretty heavy load to carry. He had become
h in the nostrils of decent people all over the state and
amies could be no longer winked at or brazenly ig-

In the Legislature of 1870, the storm burst. Arti-
impeachment with specifications, only a few of which
een referred to above, were adopted in both Houses,
judge was summoned to appear for trial on the 25th
ruary. Harrison was in Wheeling, where the Legisla-
as in session, when the joint resolution was adopted,
fled from the state in order to escape service of notice
would be too late for the Legislature to proceed with
at that session. He was followed to Pittsburgh,

where he was found in a brothel; the notice was served upo him then and there; he returned to Wheeling the next day handed to the Governor his resignation of the office of Judg of the Seventh Judicial Circuit, which was, perhaps to promptly, accepted; and his name appears no more in th history of West Virginia. A few years later he died in grea destitution at Denver, Colorado, and his body was buried b the charity of the members of the bar.

At the fall election in 1870, the Democrats elected th state officers and a majority of the members of each branc of the Legislature. A constitutional convention was called which met in 1872, and the new constitution framed by i was ratified by the people, in October of that year. The era of proscription having passed, an era of prosperity began.

O. S. Long.
W. L. Wilson.

CHAPTER X.

RECONSTRUCTION IN MISSOURI.

T may be fairly assumed that the era of reconstruction, so called, began in Missouri, on February 13th, 1864, when an act of the General Assembly providing for a convention o amend the State Constitution went into effect. By the erms of this act the convention was authorized to adopt such mendments to the State Constitution as might by them be leemed necessary to emancipate the slaves; and also to pre- erve in purity the elective franchise to loyal citizens; and uch other amendments as might be deemed essential to the ublic good.

Under this grant of power the convention proceeded to rame an entirely new constitution not excelled for proscrip- ion, injustice and inhumanity in the annals of civilized ountries.

It was known as the Drake Convention from the fact hat Charles D. Drake, one of its members, and now ex-Chief ustice of the Court of Claims, was the controlling spirit, nd absolutely dominated his timid and inferior colleagues.

The third section of the organic instrument which the con- ention adopted, was as follows:

Section 3. At any election held by the people under this onstitution, or in pursuance of any law of this state, or any rdinance or by-law of any municipal corporation, no person hall be deemed a qualified voter, who has ever been in armed ostility to the United States, or to the lawful authorities ereof, or *to the government* of this state; or has ever given *d, comfort, countenance* or support to persons engaged in *such hostility;* or has ever, in any manner, adhered to *enemies, foreign* or domestic, of the United States, either

by contributing to them, or by unlawfully sending within their lines money, goods, letters or information; or has ever disloyally held communication with such enemies; or has ever advised or aided any person to enter the service of such enemies; or has ever, by act or word, manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority, or been in the service of the so-called 'Confederate States of America'; or has ever left the state and gone within the lines of the armies of the so-called 'Confederate States of America,' with the purpose of cohering to said states or armies; or has ever been a member of, or connected with, any order, society or organization inimical to the government of the United States, or to the government of this state; or has ever been engaged in guerilla warfare against the loyal inhabitants of the United States, or in that description of marauding commonly known as bush-whacking; or has ever knowingly and willingly harbored, aided or countenanced any person so engaged; or has ever come into or has left this state for the purpose of avoiding enrollment for or draft into the military service of the United States; or has ever, with a view to avoid enrollment in the militia of this state, or to escape the performance of duty therein, or for any other purpose, enrolled himself, or authorized himself to be enrolled, by or before any officer, as disloyal, or as a Southern sympathizer, or in any other terms indicating his disaffection to the government of the United States in its contest with rebellion, or his sympathy with those engaged in such rebellion; or having ever voted at any election by the people in this state, or in any other of the United States, or in any of their territories, or under the United States, shall thereafter have sought or received, under claim of alienage, the protection of any foreign Govern-

ment, through any consul or other officer thereof, in order *to secure* exemption from military duty in the militia of *this state,* or in the Army of the United States; nor shall *any such* person be capable of holding in this state, any

of honor, trust or profit under its authority; or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing, or hereafter established by its authority; or of acting as a professor or teacher in any educational institution, or in any common or other school; or of holding any real estate, or other property in trust for the use of any church, religious society or congregation. But the foregoing provisions in relation to acts done against the United States shall not apply to any person not a citizen thereof, or who shall have committed such acts while in the service of some foreign country at war with the United States, and who has, since such acts, been naturalized, or may hereafter be naturalized, under the laws of the United States; and the oath of loyalty hereinafter prescribed when taken by any such person, shall be considered as taken in such sense."

The Constitution also provided that the General Assembly should enact laws for the registration of voters, and that no one should be allowed to register or vote until he had taken an oath in accordance with the section above quoted, but that the taking such oath was not conclusive as to loyalty, but might be negatived by other evidence, the registering officers being the only judges.

The ninth section provided that no person should practice law, or be competent as a bishop, priest, deacon, minister, elder, or other clergyman of any religious persuasion, sect or denomination, to teach, or preach, or solemnize marriages, unless such person shall have first taken, subscribed, and filed the expurgatorial oath required as to voters by the third section.

Under these provisions the parent who had given a piece of bread or cup of water to a son in the service of the Confederate States, or who had in any way expressed sympathy for such son, was prohibited from registering as a voter, or serving as a juror, or holding any office, or acting as trustee, or practicing law, or teaching in any school, or preaching the Gospel, or solemnizing any religious rite.

A more inhuman, atrocious, and barbarous instrument than *this Constitution* was never invented.

An election was ordered for June the 6th, 1865, to as

tain the sense of the people as to the adoption or rejection of the Constitution; but no person was permitted to vote "who should not be a qualified voter according to the terms of this Constitution, if the second article thereof were then in force." In other words, no one could vote who could not take the oath prescribed by the instrument upon the adoption of which the vote was taken.

Of course, the Constitution was declared adopted, but with all the means that could be invented by partisan malevolence, or enforced by brutal violence, the majority in the state was only 1,862, there being 43,670 votes for, and 41,808 votes against the instrument. It must be remembered that bodies of armed radical militia, inflamed with the worst passions of civil war, were camped around the voting places and brandished their weapons upon the day of election, with threats of violence to all who opposed the Constitution. The best men in the state were disfranchised—gray-haired pioneers who had fought the Indians for the soil on which they had built their homes; lawyers, eminent in their profession, who had presided over courts of justice, and others who had made the first laws enacted for the state; ministers who had spent their lives in preaching the Gospel of Christ; the first citizens and largest tax-payers were driven from the polls, whilst ignorance, violence, and fraud controlled the ballot box.

So monstrous was the outrage, that many leaders of the Union party refused to take the oath prescribed, and openly denounced the Constitution.

W. V. N. Bay and John D. S. Dryden, Judges of the Supreme Court, and Union men of undoubted loyalty, refused to take the oath, and were removed from the bench by the police of St. Louis, and taken as prisoners before the City Recorder.

Major-General Francis P. Blair, the admitted leader of the Unionists in Missouri, and who had commanded an army corps on the Federal side during the war, went before the *Registers in his* uniform, demanded to be recorded as a voter *without taking* the oath, and being refused at once instituted *a suit for damages* against the Registering officers.

On January the 14th, 1867, the case of Father John

Cummings, a Roman Catholic priest, who had been indicted and convicted for administering the rites of his church, without first taking the oath prescribed by the Drake Constitution came before the Supreme Court of the United States, the state of Missouri being defendant in error. It was held after an able and exhaustive review of all the questions involved in the record, by a majority of the Court, Justice Field delivering the opinion, that the Missouri test-oath as it was termed, was in violation of those provisions of the Federal Constitution which prohibits any state from enacting a bill of attainder, or *ex post facto* law, and was therefore null and void.

The twenty-fourth General Assembly elected under the operation of the unconstitutional provisions which disfranchised the intelligent and property-holding voters of the state, assembled on January the 7th, 1868, and proceeded at once to enact a registration law far more stringent and arbitrary than that which had received the condemnation of the United States Supreme Court.

RAILROADS SOLD.

The same General Assembly, with a large Republican majority in both House and Senate, passed an act, which was approved by the Republican Governor, on March 31st, 1868, providing for the sale of the Pacific Railroad, which had been forfeited to the state, to the Pacific Railroad Company, for the sum of $5,000,000, the state having issued its bonds to the amount of $7,000,000, to aid in the construction of the road.

The influences which were potent enough to secure this legislation, may be conjectured from the official report of George R. Taylor, president of the company, made after the sale, to the board of directors, in which he stated that the passage of the bill had cost the company $192,000.

It was well known at the time, and is now notorious, that *the Legislature was* purchased by the Railroad Company, and *the amounts paid to* various members have been often stated *During the six* years from 1864 to 1870, when the Repu

lican party controlled Missouri, venality, corruption and p
ligate extravagance in expenditure of the people's money h
high carnival.

At different times prior to the war, the state granted to
rious Railroad Companies aid in the construction of t
roads within the state, by issuing state bonds to the amo
of $23,701,000, viz: To the Pacific Railroad, $7,000,0
To the Pacific Railroad, for its South West Branch, $4,5
000. To the Hannibal and St. Joseph, $3,000,000. To
North Missouri, $4,350,000. To the St. Louis and I
Mountain, $3,501,000. To the Cairo and Fulton, $650,0
To the Platte Country, $700,000. By the terms of the c
tracts made with these companies, they bound themselve
pay the interest upon the bonds, advanced as it accr
but failed to do so, and in consequence of such default,
roads were taken possession of under the provisions of
acts granting the state's aid, and sold by the state, the s
being made under the regime of the Republican party.

As stated above, the amount advanced in bonds
$23,701,000, and the amount realized from the sale of
roads was $6,131,496, showing a net loss to the state
$17,569,504, together with interest on past due coup
amounting to $14,166,366, making the debt, principal
interest at the date of sale, $31,735,840.

There not being sufficient money in the State Treasur
meet the obligations incurred by reason of the aid to
roads, which obligations still rested upon the state less
proceeds of sales made by the Republicans, an act was pa
by the General Assembly in March, 1867, authorizing a
of forty cents on the hundred dollars upon all taxable p
erty in the state for the purpose of paying the interest on
state debt, so that the legacy of the Republican party to
people of Missouri, after six years' rule, was the loss of
state's ownership in the valuable railroads built with the
ple's money, and a debt of many millions of dollars, t
paid by taxation upon the property of the citizens then
ing, and those coming after them.

The following summary of these brilliant financial ac
nents by the Republican party of Missouri, will s

nduring monument of the reconstruction period in that Com-nonwealth:

Original debt assumed by the state, and past due, —	
Coupons,	$31,755,840
Deduct proceeds of sale of roads	6,131,496
Balance to be paid by the state,	25,604,344
Interest paid on this amount to date,	17,809,669
Making total cost to the state,	$43,414,013

After regaining control of the state's affairs in 1872, the mocrats of Missouri have so managed and utilized the st resources of the Commonwealth, that the debt left by the publicans has been largely reduced and will in a few years entirely extinguished. As an evidence of the economy and nesty with which the finances of Missouri have been ndled since 1872, it is only necessary to note the fact that e bonds of the state command a higher price than those of y state in the Union, whilst the taxes imposed upon the ople have been steadily decreased.

It has been often claimed by the Republican leaders in issouri, that the sale of the state's property in the railroads r the amounts received, was absolutely necessary at the ne, in order to develope the resources of the state by put-ig the roads in the hands of individuals and corporations whose enterprise they would be completed and operated.

Two significant facts disprove this statement and show that her than patriotic motives induced these sales.

The official report of George R. Taylor, President of the issouri Pacific Railroad Company, showing the expenditure $192,000 by the Company to secure the passage of the act thorizing the sale of the Missouri Pacific Railroad for ,000,000, and the equally extraordinary circumstances tending the sale of the Iron Mountain and Cairo and Fulton ailroads in the year 1866.

These roads were sold by three Commissioners, appointed the Republican Governor, under the act of the General *sembly, approved* March 19th, 1866. The law required *-Commissioners to* make the sale to the highest and bes *ler, the bids to be* handed, under seal, to the Commissi

The bid of John C. Vogel, Samuel Simmons *et al.*, of $900,000, for both roads, was accepted, and the roads transferred to these gentlemen, who immediately afterwards sold their interest to Thomas Allen for a much larger sum than the amount paid the state.

And now comes the strangest part of this "strange, eventful history." One of the Commissioners, a brother-in-law of the Governor, and belonging to the same party, resigned his place on the Commission, and in a published card stated that the bid accepted by the Commissioners for the two roads, was not the highest and best, as the law required, but that he had in vain protested against the action of the other Commissioners, and, being powerless as a minority member of the board, had no other alternative than to resign.

In the face of these facts it requires vastly more than ordinary credulity to believe that patriotic motives caused these sales of the state's property.

FRAUDULENT COUNTY BONDS.

Another legacy of the six years' rule of the Republican party in Missouri, was a county and municipal bonded indebtedness of more than $15,000,000, created by county courts and the Republican officials of towns and cities, for the pretended purpose of constructing railroads which had no existence except in the brains of corrupt speculators.

The Drake Constitution having excluded from the ballot box a large majority of the property-holders of the state, there were elected in every county, town and city, by the vicious and ignorant element that felt no responsibility, and was the absolute property of designing carpet-baggers, corrupt officials, who became the willing tools of knaves and adventurers.

Railroads in every direction were projected, and county courts, city councils, and boards of trustees, elected by paupers and vagabonds, being under the law financial agents of counties, cities and towns, went into partnership with corrupt speculators and issued without the knowledge and against the people, more than fifteen million dollars

county and municipal bonds, the principal and interest of which have been, or are being, paid by the tax-payers.

In vain did the plundered people appeal to the courts. By repeated decisions of the Supreme Court of the United States, it was adjudged that bonds issued to construct railroads by county courts and municipal authorities, having the legal power to create such indebtedness, the bonds being regular upon their face, and giving no notice of fraud, were in the nature of negotiable instruments, issued to an innocent purchaser before maturity, for a valuable consideration, and must be paid, no matter how outrageous the robbery perpetrated by the county or other officials in creating them.

Driven to desperation, the tax-payers in some localities rose against the conspirators, and avenged their wrongs in scenes of blood and horror.

In 1872 the citizens of Cass County stopped a railroad train and shot to death the Presiding Judge of the County Court and the County Attorney, who had issued two hundred and fifty thousand dollars of fraudulent county bonds, and divided them among a gang of faithless officials and corrupt adventurers.

It is to be hoped that never again will be witnessed upon this continent the reign of fraud and outrage to which the people of Missouri were subjected during these years of Republican supremacy. They are to-day paying the fraudulent debts then created, and from which they cannot escape.

Reconstruction in Missouri cost the tax-payers of the state heavily, but their experience has been cheaply bought, if it prevents the return to power of the party under whose auspices they were wronged and plundered.

G. G. Vest.

CHAPTER XI.

RECONSTRUCTION IN ARKANSAS.

CRIMINATION and recrimination are as repugnant to good taste as they are to my own inclination. Between sections of a common country they are criminal. Under this conviction, and that all parts of our Republic might be fraternized and united in a combined effort to build up our great nationality, the Southern statesmen have abstained from replying to the many slanders against the Southern people, which have been widely circulated by Republican leaders, until their unanswered reiteration has led to the belief that they are true, and has produced such wide-spread and deep-rooted prejudices among their less informed followers as to amount, in the judgment of thinking and patriotic men, to a serious danger to our institutions.

As evidenced by the character of the late presidential campaign in the North, that section is becoming as separate and antagonistic as if we were two distinct and hostile empires.

Surely this is to be deplored and surely it becomes a public duty of Southern men who know the facts, to disabuse the minds of the more candid of our fellow-citizens of the North; to let them see that the antagonism of the people of the South to the Republican party is in no sense an antagonism to the Northern section of our common country; to show them that the conduct of this party in the South was such as not only to repel the patriotism and decency of the South, but was also such as should serve as a monumental warning to the American people against all attempts to seek party advantage through illegitimate or doubtful legislative enactment.

It is under this conviction of duty that I have consented to write this review of Reconstruction in Arkansas.

Nor is there the slightest admixture of malice in anything

I shall say. Accordingly I shall not mention names except when absolutely necessary. I write not of persons, but of conditions, and methods, and outrages, which I could have hoped it might never be necessary to recall.

Indeed, many a man who participated in these outrages, when surrounded by the temptations thrown around him by the then conditions, has become a respected and law-abiding citizen since he has been surrounded by the better influences of Democratic supremacy. I shall respect his present standing, holding myself ready, however, to furnish names upon any demand entitled to respect.

To obtain a clear appreciation of the state of things in Arkansas during reconstruction it will be necessary to show how the carpet-bag government was put upon our people by Congress, and also what sort of government it was.

It was well known that the Southern people had returned from the civil war utterly impoverished. Their desolate homes were without furniture, without fencing, without labor, and often without houses. Nothing was left for the support of themselves and their families except their own courage and manhood, and therefore, they could not afford to lose time at elections except upon the most important questions.

Accordingly when Congress, in the Reconstruction act of March 23, 1867, section 5, enacted, "That . . if Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors . . . and the constitution shall be approved by Congress the state shall be declared entitled to representation . . . &c.," the people of Arkansas were disposed to be grateful to them for thus recognizing their impoverished condition and the consequent value to their families of their time, in thus enabling them to defeat an obnoxious constitution by simply registering and remaining at their much needed labors at home, not to vote at all being equivalent to a vote against it.

Thus relying implicitly upon the good faith of Congress, *the people pursued* their labors in security, feeling assured *hat nothing very* damaging to their interests would be con- *ummated without* their consent.

A constitutional convention met and formulated a constitution, which was so un-republican in its schedule that the people did not dream that Congress would approve it, and accordingly not nearly half of them voted upon its ratification.

Its schedule gave three men, James L. Hodges, Joseph Brooks and Thomas M. Bowen, such absolute control of the election of state and county officials under it that they could elect or defeat whom they wished.

Section 4 gave them power to select such judges and clerks of election as they saw fit, and to hold the election as long as they might wish in order to afford the negroes opportunity to vote in as many districts as might be needed (see military report of Gen. A. C. Gillem upon election in Pulaski County, April 22, 1868).

Section 8 gave them power to reject or count all votes which seemed to them legal or illegal, fraudulent or rightful.

Section 11 gave these election judges the right to allow any vote with which they might be "satisfied."

This constitution provided for the election of all state and county officers under this schedule. The election of these officers was dependent upon the ratification of the proposed constitution, for, although candidates should receive every vote cast for officers, the new government was only to go into operation on condition that the constitution should receive the votes of *a majority of all the registered electors*. So read the law of Congress at the time the election for the ratification or rejection of the constitution began.

But alas! On the second day after the election had begun and in the afternoon the following telegram was received by Gen. A. C. Gillem, the officer commanding:

"WASHINGTON, March 13, 1868.—The last amendatory act passed is "now law. It provides that majority of votes actually cast determines "adoption or rejection of constitution; also that electors may at the same "time vote for members of Congress and all the elective officers provided "for by said constitution. U. S. GRANT.

"Major-General A. C. Gillem."

This notification, coming two days after the election had *begun, too late*, as every congressman well knew, for the electors *of a state having* neither railroads or telegraphs, ever

hear of its existence in time for use. Such an election could not be in any sense regarded as fairly expressing the wishes of the people of the state. No election can or ought to be regarded as fair by any authority unless there be full and fair notice of the terms upon which it is to be held. Conducted as they were the elections resulted in the organization of county, town and state governments, elected by a mere tithe of the voters. In Green County, for instance, the sheriff was elected by a total vote of eight; the clerk by a total vote of seven; the state senator from the district, composed of Lawrence, Randolph and Green Counties, was elected by a total vote of thirty.

The assurance with which these carpet-bag citizens, fresh from the districts of these congressmen, assumed that they would be sustained by Congress; the ready acceptance by that body of a constitution having such a history and which the commanding general declared was not ratified except by counting 1,900 votes which were fraudulent, and the opportune time at which this last "amendatory act" was passed and telegraphed, might even justify a suspicion of a conspiracy between the Congress and the carpet-bag government.

But the writer has no desire to assail Congress.

Recognizing the fact that they had been elected to office by an insignificant minority, the officials were shrewd enough to know that in order to hold their ill-gotten power it was necessary that they should have absolute control, first, of the future elections; second, of the revenues. But first of all they knew that, as there was likely to be trouble as soon as the people should find out how basely they had been betrayed and how wantonly they were to be plundered of every sacred right of the citizen, it was necessary that they should be thoroughly intimidated.

Their first legislature in 1868 addressed themselves to these three tasks with the ingenuity of the brigand.

Although Gen. C. H. Smith, U. S. A., commanding the *district of Arkansas*, wrote to his superior officer that there *was no state of facts* existing in Arkansas to warrant such a *ep, upon the flimsiest* pretexts the governor declared marti

law in a number of counties where the people were most outspoken in their denunciation of the government which had been thus foisted upon them without their consent. Negro militia marched and marauded and murdered at will through these counties.

I might fill page after page with their atrocities, but I forbear lest their detail stir up animosities which could do no good, but were better suppressed.

They grew, however, to such enormity as to shock especially the "old citizens," who were members of the Legislature, and who were more disposed to be conservative than the carpet-bag representatives, as will be seen by the following general order:

"LITTLE ROCK, Dec. 4, 1868.

"BRIG. GENERAL UPHAM,

"Commanding Dist. N. E. Ark.

"GENERAL.—I am instructed by the Governor to write you as follows:

"Although the Legislature in the first part of the session fully endorsed "the action of his excellency in declaring martial law and putting into "active service the State Guards, it is apparent now that many of them are "'weakening,' especially are the old citizens beginning to refuse that support "which should be given the executive at this time. In order to prevent "the growth of this feeling and to take advantage of this faction it is de-"sirable that our military operations be pushed to an end within the next "thirty days. All we can do now is to show the rebels that we can march "the militia through any county in the state whenever it is necessary. Use "every effort to catch the desperadoes in Woodruff, Craighead and Greene "Counties.

"I hope you will end your operations in your section as soon as possible. "You see we are likely not only to have to fight the rebels but the Legis-"lature also. We don't propose to allow any advantage. I am, General, "your obedient servant.

"KEYES DANFORTH,

"Adj't. General."

In another order to General S. W. Mallory, commanding S. E. Dist. of Ark., on the 25th day of December, 1868, ten days afterwards, the following sentence occurs: ". . . He," "the Governor, "thinks you may safely execute many of "*them. It* is absolutely necessary that some examples be "*made.*

(Signed)

"PRIVATE SECRETARY."

It will be seen that he dare not sign his name to this *carte blanche* commission to murder.

His caution, however, was quite unnecessary, as the Legislature subsequently passed an amnesty act forbidding the punishment of any of the murders or other outrages committed by this militia. The act is here inserted. I would call especial attention to the phrase, "or otherwise," and its significance as it occurs in two places in the act. It covers a multitude of wanton crimes:

"An act to declare valid and conclusive certain proclamations of the "Governor of the State of Arkansas and acts done in pursuance thereof, "or in his orders in the declaration of martial law.

"Be it enacted by the General Assembly of the State of Arkansas:

"Section 1. That all acts, proclamations and orders of the Governor of "the State of Arkansas, or acts done by his authority, or approved after "the third day of November, 1868, and before the first day of April, 1869, "respecting martial law, military trials by courts-martial, or military com- "missions or the arrest and imprisonment or trials of persons charged with "any offense against the state, or any resistance to the laws thereof, or as "aiders or abettors thereof, or as guilty of any disloyal practice in "aid thereof, or of affording aid or comfort to those engaged therein, "and all proceedings and acts done by the military forces, or had "by courts-martial or military commissions, arrests, imprisonments, "searches and seizures made in the premises by any person by the author- "ity of the orders of proclamations of the Governor of the State, made as "aforesaid, or in aid thereof, or otherwise, are hereby approved in all re- "spects, legalized and made valid to the same extent and with the same "effect as if said orders, proclamations and acts had been issued and made, "and said arrests, imprisonments, searches and seizures, proceedings and "acts had been done under the previous express authority and directions "of the General Assembly of the State of Arkansas, and in pursuance of "the laws thereof, previously enacted, and expressly authorizing and di- "recting the same to be done. And no courts of the State of Arkansas "shall have or take jurisdiction of, or in any manner review any of the "proceedings had or acts done as aforesaid; nor shall any person be held "to answer in any court of said state, for any act done, or omitted to be "done, in pursuance of or in aid of any of said proclamations, or orders, or "otherwise, by any of said force or forces in the period aforesaid, and all "officers and other persons in the State of Arkansas, or who acted in aid "thereof, acting in the premises or otherwise shall be held to be prima "facie to have been authorized by the governor of the state; provided, "that nothing herein contained shall be so construed as to prohibit the "convening of courts-martial for the trial of persons belonging to the "*militia or state guards* of this state.

"*Section 2. This act* shall take effect and be in force from and after its passage.

"*Approved April 6, 1869.*"

Under these orders right energetically did they "push their military operations." Democrats who were most outspoken were arrested without charge, carried off, nobody knows, even to this date, where, in some instances; others were tied up and shot to death; others whipped, others imprisoned, and all robbed of personal property.

They seemed to act in these outrages, as in many others, upon the assumption that the more atrocious the outrage the less it would be believed in the civilized world, while the very complaints of them could be used as evidence of "Rebel lies," and "Rebel bitterness and disloyalty."

If it would serve any good purpose I might give scores of instances in detail. But suffice it to say that the very fact that any man connected with these murders and outrages could reside in Arkansas for from fifteen to twenty-five years afterwards unmolested, is the highest possible tribute to the love of peace and order of the people of the state.

ELECTIONS.

Their first election law was a model of mockery. It should be preserved in the archives of the Nation as at once a history and an admonition.

Section 2270 (Gant's Digest) gave the Governor, with the consent of the Senate, power to select all the registrars of votes.

Section 2274 gave him power to fill all vacancies (which were sure to occur when he wished it—see page 23 * Poland's report No. 5, to the 42d Congress, 2d session).

Section 2270 gave him the right to select the president of the Board of Registrars.

Section 2281 gave the Board of Registrars power to reject any vote at will.

Section 2288 gave the Board of Review the power to erase the names of those who had registered if they saw fit to do so.

* *The Republican House of the Forty-second Congress, second session, raised a Committee, of which Mr. Poland, of Vermont, was chairman, and sent them to Arkansas to investigate the affairs of Arkansas to ascertain if that state had a Republican form of government.*

Section 2307 gave the Board the power to select all clerks nd judges of election.

To make the job complete, section 2300 forbade any intererence by the courts of justice.

Under this farce all the elections of the state were held until, in 1874, they had become so shocking to decency, the people by a vote of ten to one (or 88,000 to 8,000) demanded its overthrow.

I might fill a thousand pages, as the report of Hon. Mr. Poland, of Vermont, fills upward of six hundred pages, with outrages upon the ballot perpetrated with impunity under this act, but in the interest of brevity I will cite only a few by way of illustrating each species.

NO. 1. ERASING FROM REGISTRATION BOOKS.

The favorite scheme, and the one practiced in every precinct in the state, where it was necessary, was to first register ll who were entitled to vote and then meet in review in some rivate place and scratch off with red ink such names as were ecessary to secure their majority, under section 2288, which ave them that power.

In this legislative district, composed of the counties of ranklin, Crawford, Sebastian and Scott, just before the lection of 1872, 2500 names of legal voters were erased by ie Board of Review after they had been registered.

(See the depositions of many of them in Poland report o. 22, page 35 to 52.)

In this county the board struck off 1300 names.

(See testimony of one of the board, H. A. Pearce, Poland eport No. 2, page 70.)

Many of these were Union men and ex-Federal soldiers.

NO. 2. THROWING OUT COUNTIES AND PRECINCTS.

Another favorite plan, was to have their friends get up *me sort of irregularity* in precincts or counties and then use *as a pretext for* throwing out the precinct or county vote *ire.*

In 1872, after all the returns had come up to the Secretary of State, it was found that Brooks was elected Governor. That official (the Secretary of State) sent the returns back to be "doctored," and letters were written to the clerks to amend returns, and excuses were gathered up for throwing out enough precincts and counties to elect Baxter. Democratic precincts in Van Buren County, all but one in Conway County, all of Green, Johnson, Scott and Poinsett Counties were thrown out. Leading Republicans went all over the state to attend to the "doctoring."

(See Poland's report No. 2, pages 244, 245, 255 and 67 to 75.)

In Hot Springs County, in 1868, the Register began to register votes, and had registered, perhaps, a dozen, when several gentlemen came into the yard to register. They were quietly laughing and conversing among themselves about every-day matters, when the Register jumped up and said he wanted protection. The bystanders were astonished. They asked him what he meant? He replied that if he could not get protection he would quit, and immediately picked up his book and left.

Nobody understood it until a few days afterward a proclamation of the Governor declared that no election would be held in this county. The Register had selected an out-of-way precinct to enact this farce. Thus this Democratic county was wholly disfranchised.

NO. 3. ERASING AND STUFFING.

In Hot Springs County, in 1872, a candidate for State Senator fraudulently struck off three hundred names from the registration books and substituted in their stead several hundred straw names, and after the election, his brother being clerk, he called off these straw names and his brother added them to the poll list and voted them. Many of the names scratched off were those of Republicans, who would not vote for senator. (See Poland report No. 5, pages 22 to 28.)

In Caddo Township, in Clark County, the poll book showed *1148, whereas* the registration book and the census showed *only 800.* (See Poland report No. 5, page 23.)

In Missouri Township the candidate for Clerk, who was one of the judges of election, stole and stuffed the ballot box four hundred votes. This stuffing elected him.

In Antioch Township only seventeen names registered, but one hundred and twenty-one voted in 1870, etc.

NO. 4. STEALING ONE BOX AND SUBSTITUTING ANOTHER.

In the town of Van Buren, Crawford County, a leading negro was instructed to place sentinels upon the various roads leading into town, and to keep back negro voters until the afternoon. He was not told why.

The supervisors of election were also kept outside until after dinner. The Democrats voted in the forenoon. When the judges and clerks and supervisors went up-stairs to dinner, a box already prepared, having as many votes in it as had voted in the forenoon, and all Republican votes, was substituted for the one in which the forenoon votes had been cast and which was stolen. It was afterward found in the garret with the Democratic votes all in it.

In the afternoon the negroes and Republicans did their voting in this new box, which was the one counted.

(See Poland's report No. 2, pages 36, 49 and 50.)

NO. 5. SECRETLY CHANGING POLLING-PLACES AND STUFFING.

In Richland Township, in Crawford County, the polling-place was secretly changed on the night before the election of 1872, from the place where it had been for thirty years, and removed six miles to a cane brake on the farm of the United States Marshal of the Western District of Arkansas. The negroes and the Republicans were advised of the change, but not the Democrats.

A box with fifty votes in it, all Republican, was taken to the polling-place, and they were kept in the box and counted by the judge. The box was taken ten miles away in another *township, and there the* votes were counted.

(See Poland report No. 2, pages 36 and 37.)

NO. 6. DEFEATING REGISTRATION.

The Board of Registrars would meet at the appointed time for registration, but would only let a few Republicans in, and then adjourn to the next day. People would come for miles, for three or four days at a time, but as they could not get in, they would get discouraged and go home. In Clarksville and Newport and other places, not one in ten could register.

(See Poland report No. 2, pages 284, 289 and 290.)

NO. 7. CERTIFICATION.

It was a boast of the Clerk of Union County, that "the Democrats must think I am a d—d fool, if they ever expect me to certify a Democrat as elected while I am clerk."

NO. 8. EXCHANGING.

In 1872, in Cache Precinct in Monroe County, 125 more votes were voted for Brooks for Governor than the judges returned. Brooks' votes were given to Baxter and Baxter's to Brooks.

(See page 333, Poland report No. 2.)

But why multiply examples? Let any candid man read the 670 pages of Mr. Poland's two reports to the Forty-second Congress, second session, and say whether, if any Arkansian were seeking a generic phrase, which would include every species of outrage upon the ballot ever invented by man, he would not be justifiable in terming it

"REPUBLICANIZING THE BALLOT?"

Let it not be forgotten that I have not referred to the testimony of Democrats before that committee, but to that of Republicans and men, too, who had participated in the outrages to which they swore. They had perpetrated the outrages to *secure the* election of Baxter as Governor, but when he *proved more* honest than they had expected, they swore *to their own* infamy to get him unseated, and having been *sustained so long* by all departments of government, th

fully expected Congress to do their bidding and to reinstate them.

REVENUES.

Their first revenue law is exquisite in the ingenuity of its plan of plunder.

Responsible alone to public sentiment of the North, they dared not to make the rate of taxation too exorbitant, but raised their enormous revenues through exorbitant assessments, which could more readily be hidden from public view.

For an illustration, in 1865, the first year of Democratic rule after the war and before reconstruction, the tax on the North ½ of Sec. 1, T. 4, S. R. 2 W., was $2.40. In 1873, the last year of Republican rule, the tax on same tract was $29.70, or upward of

TWELVE TIMES AS MUCH.

Or to take two other periods, in 1888, when property all over Arkansas was more valuable than ever before, a house and twelve lots in De Witt was assessed at $1060 under Democratic régime.

In 1871, under Republican rule, the same house, with only half as many lots and not nearly so well improved, was assessed at $4640, or nearly five times as much.

The tax on the same house, greatly improved, with twelve lots, was in 1888, under Democratic rule, $14.60.

In 1871, on same house with only half as many lots, under Republican rule, the tax was $92.80, or nearly seven times as much.

These remarkable differences were effected through the instrumentality of their peculiar assessment law. It is a curious document.

Section 38 gave the Governor power to appoint and to remove all assessors.

Section 156 gave the assessor 3½ per cent. commission upon *all taxes collected,* as a bribe to assess largely.

Section 47 required him to swear that he had not assessed *ny property at* less than its cash value. He could assess

as much more as he pleased, and no questions asked. Not only did the governor hold the power of removal *in terrorem* over him; not only did they bribe him by large commissions; not only did they swear him not to assess too little, but Sections 53 and 64 made it the duty of the County Clerk to revise the assessor's return and to add as much as he saw fit, but forbade him to reduce "in any case."

Section 154 gave the clerk a bribe for adding in the shape of fees, the amount depending upon number of words.

Sections 57 and 66 organized a County Board of Equalization, composed of this same assessor, this same clerk, and two other county officials interested in large tax crops. To this board the law said:

You may raise any assessment you think proper, or reduce in any case you wish, but you shall not "reduce the aggregate value of the property of the county below the aggregate value thereof as returned by the assessor with the additions of the clerk as hereinbefore required."

Or as it was construed and acted upon, "you may take from a Republican as much as you please, but you must put it upon Democrats, so as not to reduce the aggregate."

EXTRAVAGANT RESULTS.

Under Democratic rule the amount expended for state purposes for the two and one-half years, from April 18th, 1864, to October 1st, 1866, was only $162,000, or $64,000 per annum.

Under Republican rule for two years, ending October 1st, 1870, the amount expended for state purposes, was $1,949,-456.72, or upward of $974,000 per annum, being more than fifteen times as much.

For two years ending October 1st, 1872, the amount expended was $1,805,137.98, or upwards of $902,000 per annum, being upward of fourteen times as much.

For the two years ending October 1st, 1874, the amount *expended was* $2,529,686.91, or upwards of $1,264,000 per *annum, being* more than nineteen times as much.

In addition to these amounts collected and expended duri

these six years under Republican rule, they left outstanding claims amounting to $2,147,950.20, which have been paid by Democrats since, and which increases their annual average expenditures to $1,259,140.03, or nineteen times as much as under Democratic rule.

One item will serve to account for this vast difference.

It seems to have been necessary to import carpet-baggers to do certain work of this illegitimate government from which the old citizens recoiled, and when they came to Little Rock it was necessary to provide for them until they were needed in their respective fields of duty. Accordingly they were put upon the pay roll as clerks of some of the departments. For instance:

Under the Democrats in 1866, the Auditor's office included that of Land Commissioner. The clerk hire for that year amounted to $4,373.60.

Under Republican rule in 1873, the office has been divided into two. The clerk hire in one half (Auditor's office proper) amounted during that year to $60,461.21. In the other half to $43,673.30, being a total of $104,434.51, or upwards of twenty-three times as much. (See special report of Auditor, January 7th, 1877.)

That there be no quibbling about periods, let us take two others for comparison.

During the six years of Republican rule there were expended for state purposes (not including school expenses) a total of $7,555,840.28, being an average of $1,259,140.03 per annum. Of this vast sum less than $100,000, or one 75th part, were expended for public improvements.

During six years of Democratic rule, from 1880 to 1886, (after most of the floating debt had been paid off) the total cost of state government (not including school expenses) was $2,173,446.66, and of this more than $500,000, or nearly one-fourth, was for public buildings.

Deducting amount for public buildings and we have under Democratic rule for six years, a total of $1,673,446.66, or *about $278,000* per annum.

Deducting amount for public buildings under Republican *rule and we have* left a total of $7,454,830.21 or upwards

$1,242,000 per annum. But it should be remembered that a very large part of the expenses under Democratic rule is for care of state institutions built by Democrats and not in existence during the Republican *regime*.

It must not be forgotten, if we would rightly appreciate the enormity of their plunder, that I have been speaking of state taxes and state expenses alone. The county, town and school district taxes and expenses were very much more extravagant and burdensome.

The rate of taxes in the various counties and towns ranged from 2 per cent. to 6 per cent., and school district tax from 2 per cent. to 3½ per cent. and upon assessments often more than the property would sell for. These enormous taxes, taken together with the state tax, amounted, in hundreds and thousands of instances, to confiscation. In Union County hundreds of farms were abandoned.

In Arkansas County 2,510 tracts of land were sold for taxes in 1868.

In this city,* then a village, in 1873 a widow lady, who made a living by sewing, was taxed $60 on a piece of a lot fronting on a back alley and having a house which could be built for from $300 to $400. It was more money than she had ever had at one time in her life. My wife, moved to tears at her deep distress at the prospective and inevitable loss of her home, persuaded me to pay her taxes as an act of charity.

The whole state was filled with despondency and gloom. No wonder that the next year there was such an overwhelming demand for the overthrow of the conspiracy.

But the half has not yet been told. In addition to all these vast revenues collected and wantonly expended, they left the state and every county, town and school district in the state overwhelmed with

DEBTS.

If there is a single exception I have not been able to find *it out.*

I doubt not that the aggregate of these county debts

* Fort Smith.

amounted to more than the entire state debt, including the fraudulent bonds of the state, and yet there was absolutely nothing to show for them.

The school district of Fort Smith, for an example, was left so deeply in debt that for several years a number of us had to support the public schools by private subscriptions, while the entire tax was appropriated to paying off its debts.

This county was left a debt of about $100,000, with not $500 worth of improvements to show for it.

The county of Clark was left a debt of $300,000, of which only $500 was expended in public improvements.

Chicot County has a debt of $400,000, with no *quid pro quo* handed down from the conspiracy.

Pulaski County had a debt left her of nearly, if not quite, a $1,000,000 (including Little Rock).

The scripts of the various towns, counties and school districts were worth only from 10 cents to 30 cents on the dollar. Even the state script, bearing 5 per cent. interest, was worth only 25 cents on the dollar.

On the other hand, when the Democrats got in power, in 1874, their constitution made the maximum of state taxes 1 per cent. (we levy only one-half of that), that of the county one-half of 1 per cent., that of cities and towns one-half of 1 per cent., that of school districts one-half of 1 per cent. It also forbids the issue of any bonds or other interest-bearing evidences of debt for any purpose except to pay pre-existing debts.

Yet, notwithstanding these low rates, we have taken up upwards of two millions of the floating debt of the state, paid off several hundred thousand dollars of bonded debt, paid off nearly all the county and school debts, have built an hundred times as many school-houses, and twenty times as many other public improvements as did the Republicans with all their millions of revenues, amounting to from ten to nineteen times as much as have been exacted from the people by the Democratic government.

In addition to all these taxes, and county and town and *school district debts*, they left us a legacy of nearly ten millions of *fraudulent* State bonds to be dealt with.

1st. Under a law, since declared unconstitutional by c

Supreme Court, bonds of the state were issued, during Reconstruction, to the amount of $5,350,000 to certain railroad companies, all in fraud of the law, even if it had been constitutional. From two to three times as much was issued to each road as the terms of the law allowed.

To the M. & L. R. R. R. Co. was issued $1,200,000, nearly three times as much as was allowed by the terms of the law.

To the L. R., P. B. & N. O. R. R. were issued—

Railroad aid bonds,	$750,000
Levee bonds,	320,000
(See page 25, Poland's report.)	
Of Chicot County bonds,	100,000

This company built for all this only twelve miles of road, and then took up the iron to put it on other roads to draw bonds anew.

To the M. O. & R. R. R. R. (a member of the Supreme Court being president) were issued both railroad aid bonds and levee bonds and Chicot County bonds—all fraudulent (see page 25, Poland's report and official record).

And thus with all the roads which were corrupt enough to receive bonds. The road which really meant to be built, the I. M. & S. R. R., would not have them. And every road that received them was so much crippled that its completion was delayed for years. The state not only did not receive any benefits, but injury instead.

2d. Under two acts of the Legislature of 1869, when a few people desired to have their farms ditched or drained, they applied to the Commissioner of Public Works at the Capital, who, if he saw fit, had the ditches or drains made (see acts March 16th, 1869, and Sept. 12th, 1869). To pay for them, all the neighbors who were supposed to be benefitted by them were taxed. Sometimes farms in the mountains, fifteen miles away, were taxed. These payments were made, in the first place, in "swamp-land warrants."

These acts were so clearly unconstitutional, and there was *so much corruption* connected with the issue of warrants, that *they became* entirely worthless; indeed, had no market value *at all.*

In 1871 the holders, or a number of them, bribed the Legislature to pass the act of March 21st, 1871, under which these warrants were to be taken up and exchanged for bonds of the state, known as "Levee bonds," and also made receivable for lands of the state.

Under this last act $3,005,846.05 in "Levee bonds" were issued, although the act limited the issue to three millions.

The act was held void by our Supreme Court.

Under this act, also, bonds were to be issued to railroads whose beds were available for levees or drains.

A Senate Committee, in 1883, reported that under this act—

"The White River Valley and Texas R. R. Co. received bonds amount-
"ing to $175,196.36. There was no such road. It may have been char-
"tered, but no such road was ever built, and if it had been it would have
"been worthless as a levee." (See report for this as well as other items of the great fraud.)

The report also says that upwards of a million acres of the best lands of the state were bought with these worthless warrants under this last act.

3d. Under an act of the Legislature, approved February 24th, 1838, the state loaned a private bank in Little Rock, called the "Real Estate Bank," five hundred thousand dollars in its bonds to be sold, but at not less than par, the proceeds to be used in starting a branch of their bank in Van Buren, in the western part of the state.

The bank officers undertook to sell them to the North American Trust and Banking Company of New York. The company said that they had already floated as many Arkansas bonds as could be floated at par, and refused either to buy or to attempt to sell.

The officers of the bank then hypothecated the bonds with this same company and drew out upon their security $121,333, and not for the purposes of the act, but for their own private purposes.

The North American Company failed shortly afterward, owing one James Holford a large amount. He found among *their assets these five* hundred $1000 bonds, and demanded *payment by the state.* The Governor informed him that the *bonds showed upon* their face that they were in the possessio

of the Trust Company by fraud, and that they belonged not to Holford but to the state.

Holford held on to the bonds, and in April, 1869, he saw his opportunity with the carpet-bag Legislature.

His agent asked them for the $121,000 drawn out by the bank officers, together with interest. But the Legislature, through lobbyists, said, no, we will not pay you this amount of about $330,000, but if you will put in your claim for the $500,000, with forty years' interest, making in all $1,370,000, we will give you your $330,000 and we will take the balance as a reward for our honesty "in restoring the honor and "credit of the state."

This amount was issued and so divided.

These three classes of bonds were investigated by a committee of the House, of which I was chairman. The almost unanimous report of the committee was the following language:—

"MR. SPEAKER: Your committee . . . have had in evidence "before them that there was formed and organized in this city, a combina- "tion of men, called a 'ring,' who had a regular cypher by which they "concealed their true names in their correspondence.

"That this 'ring' borrowed money from persons outside the state for the "purpose of bribing the Funding Act of April 6th, 1869, through the Le- 'gislature, of getting a distribution of the 'railroad aid' bond . . . "and that seventy-five thousand dollars were subscribed by men interested "in the levee contracts with which to purchase the legislation, which made "levee bonds receivable for the lands of the state."

[Signed] By nine of committee.
(One Republican dissenting.)

A few samples may be given.

J. S. Haymaker had a contract for a ditch in Crawford County, for which he received three times its cost. It benefitted nobody, but farms up in the mountains were taxed to pay for it. Warrants were issued to him, which he wished to exchange for bonds and he was willing to pay for the enactments of a law that would benefit him.

I have in my possession a check drawn by him upon the *Republican* Bank in Little Rock for $2000, payable to the *Secretary of* Senate (whose father was a senator) when the *act of March* 21st, 1871, should be passed without amen

ment. Across the face is the acceptance of the bank upon conditions named. Across the face, also, is marked "paid March 21, 1871," and signed by the bank officials.

Accompanying it the certificate of the Secretary of the Senate that the bill had passed.

The partner of Mr. Haymaker in the banking business, in this city, testified that "Mr. Haymaker was one of the parties "interested in levee contracts. He showed me a note ad- "dressed to him by a member of the Legislature, without "signature, stating that he must have $10,000 for his support "and influence.

"He also told me that he approached a certain man in "Little Rock for his support and influence in favor of the "levee act of March 21st, 1871, and was told that it could be "had for $25,000.

"This price was refused, but afterward this same man "(whose name I am not certain of) was silenced by a threat "to thwart his aspirations to a position on the Supreme Bench, "which he afterwards got."

A gentleman of high standing, who was employed in the offices of the leading lobbyists, testified that a certain distinguished member of the Legislature got $25,000 for his support of the "Holford bond," or "funding bill," of April 6th, 1869. That member was called before the committee, but declined to answer, and as we could not force him to criminate himself he was excused.

A Republican state senator who was deep in the inside of matters, after warding off question after question by the chairman, finally admitted that his opinion was that the lobbyists, naming them, got $870,000 as their share.

The people of the state, after ten years' discussion through the press and on the stump, adopted an amendment to the Constitution forbidding the Legislature ever to pay either principal or interest of these three classes of bonds.

If this review were not already too long, I could show that the various county and school debts were equally fraud- *ulent. In many of the* counties script was forged and then *onded.*

MISCELLANEOUS OUTRAGES.

Perhaps I can give no better idea of the condition and spirit of affairs during reconstruction, than by a few simple illustrations of a miscellaneous character.

No. 1. A Judge of one of the circuits carried with him around his circuit an armed squad of men, who were placed on guard at the court-house door, and even around the bench. A citizen of Carroll County was arrested, examined and committed to answer at circuit court for assault with intent to kill J. T. Hopper. The proof showed that the judge was himself implicated in a conspiracy to have Hopper killed. (I am informed that Hopper was a disgusted Republican.) The judge ordered the case dismissed before the grand jury could act.

He also carried around with him a stenographer, but nobody ever heard of his having reported a line. In Carroll County, this judge ordered the clerk to illegally issue to this stenographer four hundred dollars in county script, but it was really to himself, for two nights afterward the judge lost it all at poker.

No. 2. One of the reconstruction judges of our Supreme Court remarked to me the first time I ever met him, "D—n principle; I am for what will win." This same judge, while on the bench, was a lobbyist before the Legislature, and it was testified that he offered to buy votes for a United States Senator—our Chief Justice being another lobbyist. (See pages 91, 92 and 93 of the report of the Morrill committee to United States Senate of Forty-second Congress, third session.)

Another judge, of same court, offered to sell his vote as a member of the Legislature, and in support of a corrupt scheme of robbery, for $25,000, as seen above.

The Chief Justice, besides being a lobbyist, as before stated (as will be seen from his own testimony, pages 213–215, Poland report No. 2), was chief counselor in "straightening" *out* crooked certificates and returns, president of the Republ*ican newspaper* company, its behind-the-throne editor, chair*man of the* Republican State Central Committee, and Chief *Justice of the* Supreme Court of reconstructed Arkansas.

No. 3. The clerk of Union County, when threatened with prosecution for illegally issuing script to himself, remarked publicly that, "I would be a d—d fool to do that when I "have a court which will make me any allowance I ask for." (His certificate elected the court or defeated it.)

The clerk of Clark County would take the script book with him, walk into a store, and asking how much he owed, would fill in a blank piece of script with the amount and pay his debt.

No. 4. The assessor of Yell County (as in others) assessed the lands of Democrats at from two to five times the value of lands of Republicans lying alongside, having the same character and being much better improved.

In this city the assessor lost heavily at faro one night. I was told the next morning that he rose from the faro table and remarked, "Well, I don't know how I will ever get even, unless I raise the assessments of Fishback or some of these other d—d Democrats." (He was entitled to 3½ per cent. commission on the raise.)

No. 5. In Hot Springs County, in 1873, the county court, through commissioners appointed by himself, contracted with the sheriff to have a court-house built, to be paid for in county bonds. The bonds were issued to the extent of $33,-00 worth. But the house was not built. The county did not get even a brick-bat or nail in return for about $70,000, which was the total amount of bonds, interest and cost of suit, which the people have since paid.

The Democrats have paid this since and built a very fine court-house.

No. 6. In Perry County the county officials bought forty acres of land only a quarter of a mile from the county site, laid off a town on this forty acres, and then removed the county site to it. They then let a contract to their own stockholders in their new site for building a court-house at three times its value, and advanced money out of the county treasury with which to purchase and erect a saw-mill for the purpose of sawing the necessary lumber for their house.

No. 7. In Clark County (as in several others) bonds of the county to the amount of $100,000 were fraudulently

issued to a railroad, not a rod of which was ever built. The county has had these bonds to pay.

In the same county script was forged to the amount of $63,000, and afterwards funded in county bonds. Suit was brought by innocent holders, and it was proven that they were forged.

In the same county the county court paid out of the county treasury $1,625 to Republican lawyers as fees for defending a contest of the seats of judge, sheriff, clerk and treasurer.

The clerk was also allowed and paid $2,000 for stationery.

The wife of the clerk testified that he had forced her to burn the script book.

No. 8. In Union County, where the clerk who issued script to himself resided and presided, the average annual county expenditures during the six years of Republican rule amounted to $28,982.24. During the last fourteen years of Democratic rule the average annual expenditures have amounted to about $10,000. And much of this has gone to pay off a debt of $35,000 with interest left them by Republican rule.

No. 9. The spirit of the whole reconstruction business cannot be better illustrated than by two little side incidents:

Mr. I. S. Haymaker, above referred to, when he first came to Arkansas, came to my house to induce me to go into the banking business with him. In the course of our conversation he said that on his way to Fort Smith his steamboat stopped at Little Rock nearly twenty-four hours. While at the wharf a certain man (naming him), from the same town in Ohio with himself, but now in official position in Little Rock, came aboard and said to him: "Haymaker, get out "here. Here are the finest pickings. We have got the d—d "rebels by the wool and we intend to pick them as long as "there is a lock of the fleece left."

When I introduced to the constitutional convention of 1874 the resolution looking to repudiating the fraudulent bonds *above described*, a banker from New York or Boston, I forget which, was at Hot Springs, and remarked to a distinguished gentleman of the state: "I have some of those "bonds myself." The gentleman asked him if he did

know how fraudulent they were, and that the people would not pay them. He replied: "I don't think they ought to, "but they only cost me fifteen cents on the dollar, and I be- "lieved the Republicans would hold this state for the next "twenty-five years and in that time I would get a dollar for "my fifteen cents."

No. 10. In Washington County the president of the board of registrars, in 1872, and the circuit judge of that circuit, had a conference with Z. M. Pettigrew, an old citizen who had been sheriff of the county before the war. They informed him that they forsaw the early overthrow of their party (subsequent events showed that they were frightened and wished to prepare for the future), and they wished him, although a Democrat, to be elected sheriff, offering to allow enough names to remain on the registration list to elect him if he would run. He agreed to do so upon condition that they would elect P. R. Smith, another Democrat, clerk. To this they agreed, and it was accordingly done—both were elected.

No. 11. In 1871 the governor of the state was indicted by a Republican grand jury of the Federal court at Little Rock for issuing for a corrupt consideration a false certificate of election to John Edwards to Congress (the House of Representatives also unseated Edwards because the certificate was false). The same grand jury indicted the senator of Hot Springs County for erasing 300 names from the registration books and inserting several hundred straw names, which he and his brother afterwards fraudulently voted.

The President of the United States removed both the United States marshal and the district attorney to protect these men from punishment, and put in their stead two henchmen of the indicted governor. The man appointed as district attorney had been a member of the governor's staff and was known as his serviceable tool, but was not known to the bar of the state. If he had ever had a case out of a justice of the peace's court or of any higher character than *small misdemeanor in* any other court, it is not generally known. *(See Poland's* report No. 5, pages 3, 6, 8, 10, 13 *9, 21, 22, 25.)*

No. 12. In Fort Smith, in 1872, right under the eyes of the United States District Court for the Western District of Arkansas, under whose exclusive jurisdiction the election frauds of the district had been placed for the protection of the people, a long line of negroes extending across the street was stationed at the polling-place. As a negro would vote he would step out and go to the rear end of the line to keep out such as they did not wish to offer to vote, but to step out and give place to such as they desired to vote.

To prevent a riot on the part of the whites, who were thus kept away from the polls, a company of men armed with Winchester rifles were stationed in a room above the polling-place.

United States District Judge W. W. Story appointed a supervisor of election for the precinct, but the judges of election refused to let him serve. This was communicated to the judge, who, instead of committing them for contempt, recalled the appointment and appointed another man, but the judges refused also to let him act, and sent the judge word that if he would appoint a certain other person he would be admitted. The United States district judge did as the men bade him.

As heretofore seen, the United States marshal of this same district was a party to the fraudulent removal of the precinct of Richland, in Crawford County, down to his farm (as seen by reference to Poland report above.)

Twenty-five hundred names of legal voters of this legislative district were erased from the registration books by the board of review. One hundred and ten of these were ex-Federal soldiers. Thirteen hundred names in this county alone were scratched off. (See testimony of one of the registers in Poland report, page 70.)

In Big Creek Township, in this county, the name of an old Union man, who had lost four sons in the Federal army, was among those erased and disfranchised, while an armed militia stood before the polling-place and threatened to arrest any one *who attempted* to vote at the side polls under the enforcement act.

The people proposed to appeal to the court for the punishment *of these* crimes. But the United States Marshal,

self a *particeps criminis*, did not summon the Grand Jury selected by the Commissioners in the usual way. They attended court, however, and were on hand ready to serve. The court set aside the panel. The Marshal, instead of summoning these good and true men for a new panel, called persons whom he had brought for the purpose, many of whom had been parties to election frauds. Thus not a man was punished or even indicted.

I drew up a statement of the facts at the time, which was attested by twenty-two members of the bar in attendance upon the court, and sent it to the President of the United States. But the executive, as well as the judicial department of the government was deaf to our appeals.

No. 13. Again and again these outrages were laid before Congress in cases of contested seats both in the Senate and House, but in no instance was any attempt made to arrest them.

And when, in 1874, Republicans and Democrats alike voting by the unprecedented majority of ten to one (in this county, having over 900 Republican votes, nearly all white, there were only two votes in opposition), demanded a new constitution, at once the cry started at Hot Springs, with the late O. P. Morton, of Indiana, then United States Senator, and extended to Congress, that we were engaged in a revolutionary proceeding, and the Poland Committee was sent to investigate us.

The report of that committee should be had by every voter in the North.

It may not be out of place just here to say that the same Republican grand jury which indicted the Governor in 1871 was called to examine cases against Democrats, but could find no proof. (See Poland's report No. 5, page 8.)

What, then, is there about the Republican party as our people know it to commend it to self-respecting, patriotic men of the South?

In whatever attitude they have presented themselves to us, *whether as committing* every species of outrage upon *human rights to attain* party success, or as bitterly and *falsely maligning* the people of the South in every ca

paign since the war, or in whatever aspect they have ap peared, they have led our people to believe their motiv and their motto to be, as expressed by one of their leader in this state: "D—n principle; I am for what will win.

Surely, after reading these facts, it will not be necessar for our candid, reasonable fellow-citizens of the North t account for the solidity of the South upon the hypothesi of hostility to the Northern section of our common country

W. M. FISHBACK.

CHAPTER XII.

RECONSTRUCTION IN MISSISSIPPI.

THE RECONSTRUCTION ACTS, THEIR DEFINITION, AND HOW THEY OPERATED.

IN August, 1866, a convention to promote the restoration of the Union, which had been broken by the interstate war, was held at Philadelphia. Addressing a committee f that convention, communicating its proceedings, President ndrew Johnson, describing the pending Reconstruction Acts, aid: "We have seen this Congress pretend to be for the Jnion, when its every step and act tended to perpetuate dis-nion and make a disruption of the States inevitable. Instead f promoting restoration and harmony, its legislation has par-ken of the character of penalties, retaliation and revenge." n his message of March 2d, 1867, vetoing a bill "to provide r the more efficient government of the rebel States," he scribed it as a measure not only violative of the Constitu-on of the United States, but "utterly destructive of those eat principles of liberty and humanity for which our an-stors on both sides of the Atlantic have shed so much blood id expended so much treasure." Demonstrating the accu-cy of this characterization, he said that the governments ovided by the measure "closely resembled" those which id been tried in Hungary, Poland and Ireland, and inflicted ffering which "roused the sympathies of the entire world." ese declarations cannot be discredited as the testimony of a tness biased toward the Southern people. Andrew Johnson d given the strongest proof of his opposition to their urse. *A Southern* man by birth and training, and once a *sted leader of the* Southern Democracy, he had forsworn *allegiance to his* own people, abandoned them, attache

himself to the Republican party, a Northern sectional organization, and had been elevated to the Presidency by virtue of the office of Vice-President, to which he was elected on the Republican ticket, as the associate of Abraham Lincoln. He had commended himself to the favor of that party by his violent denunciation of the policy of secession, and by his speeches "breathing threatenings and slaughter" against the Southern people.

Pretermitting a discussion of the causes which led to the war between the states, the object of this paper is to show that the plan of reconstruction devised and enforced by the Republican party, and characterized as unconstitutional, vindictive and despotic by President Johnson, one of its chosen apostles, was not justified by the end which it professed to seek in waging war against the Southern States, and was without a single palliating circumstance. The writer speaks especially for Mississippi, whose cause, however, was similar to that of her sister Confederate States. The inquiry arises, What was the motive assigned by the Congress of the United States in making war against the Southern States? It is answered by a resolution which passed Congress in July, 1861, declaratory of the objects of the war, as follows:—

"*Resolved*," etc., . . "that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality and rights of the several States unimpaired," etc., etc. The evidence is incontrovertible that the purpose here set forth was practically attained when, overwhelmed by the superior military resources of the United States Government, the armies of the Confederate States surrendered after a long and unequal contest and their government was dissolved.

MISSISSIPPI'S PROMPT ACQUIESCENCE.

Immediately upon the surrender of the southern armies, *the Governor* of Mississippi, Hon. Charles Clarke, issued h

proclamation convening the Legislature for the avowed pur-
ose of recognizing the authority of the United States, and
estoring the State to harmonious relations to that government.
His prompt action meant the sanction by Mississippi of the
mendment to the Constitution of the United States abolish-
ig slavery; the enforcement of legislation consistent with
is organic change in the institution of the State; the election
Senators and Representatives, and all other acts essential
the complete restoration of the State to the Union. As soon
the Legislature assembled to carry out this purpose, it was
ssolved by the edict of a military commander. The Gover-
or, when in the very act of co-operating with it for this
owed object, was arrested and carried under military escort
prison in a distant state. If it was truthfully declared in
e resolution above quoted that the war was prosecuted "to
eserve the Union with all the dignity, equality and rights
the States unimpaired," the removal of the Governor, and
e dispersion of the Legislature while in the act of comply-
g with the requirement of the government, was unnecessary
d absolutely despotic. A striking proof of the inconsistency
President Johnson is that the order for this arbitrary pro-
eding emanated from him as commander-in-chief of the
rmy and Navy of the United States. It will be remember-
l that in his message of March 2d, 1867, he stated that
lississippi (in common with the other seceding States) "had an
ctual government with all the powers, executive, judicial
nd legislative, which belonged to a free state." The machinery
or managing their domestic concerns has never been dis-
urbed. Their subsequent action during his administration
erved to bring forth in bold relief the patient endurance of
he people of the State, and a perfect good faith of their de-
lared intention to restore it to the Union. Setting aside the
uick and ready plan already adopted by them, President
ohnson appointed Hon. W. L. Sharkey, the most prominent
f the original Union men in the state, Provisional Governor.
cting in obedience to the order of the President, Governor
harkey on *July 1st, 1865*, issued his proclamation stating
t he had been commissioned as Provisional Governor "for
purpose of enabling the loyal people of the state to org

ize a state government;" and to accomplish this object he had been directed "at the earliest practicable period to prescribe such rules and regulations as may be necessary and proper for convening a convention of delegates to be chosen by that portion of the people of the State who are loyal to the United States, and none others, for the purpose of altering or amending the Constitution thereof so that the State may be able to resume its place in the Union." The Provisional Governor in order to expedite the restoration of the State to the Union, continued in the discharge of their functions the local and county officers who were in office when the armies of the Confederacy surrendered, reserving the authority, however, to remove such incumbents as were "not loyal to the government of the United States." He earnestly invoked "loyal citizens to give timely information in regard to any officer obnoxious to the serious objection" of disloyalty. In this proclamation, Governor Sharkey said "the negroes are free, free by the fortunes of war, free by common consent, free practically as well as theoretically, and it is too late to raise a technical question as to the means by which they became so;" that "the paramount duty before us, was the business of improving our government, if it should be found to need it, and of promoting reconciliation between the Northern and Southern people." The convention which assembled in obedience to this call, was composed almost exclusively of

ORIGINAL UNION MEN

—"of gentlemen," to borrow the language of one of its prominent members, "who held opinions directly the opposite of those of Mr. Jefferson Davis." The convention adhered strictly to the line of policy indicated by the Governor; and its presiding officer at the conclusion of its business, in his valedictory said, that it "had acted with a determined purpose to cherish to the last day of our generation, and hand down to our children *to protect* and cherish forever the Constitution and the *Union of the* States." The convention besides framing an *organic law* adapted to the changed condition of the State, *provided, also,* for the election of State officers, members of

Legislature soon to be assembled, and of Senators and Representatives in Congress. The civil and military leaders who had been prominent in the secession movement, either betook themselves, or were sent, to the rear; but candor requires that it should be stated that this disposition of them was not due to the belief of any considerable number of the people that they should be put under the ban. It was in accord with the eternal fitness of things, and a concession to what was understood to be the predominating Northern idea that the execution of the plan of restoring the state to the Union should be confided to those who had opposed secession. In answering the summons to come unto the marriage, the people aimed to present themselves in a garb suited to the occasion, and to furnish no excuse for their rejection.

THE CONCURRENT TESTIMONY OF PRESIDENT JOHNSON AND GENERAL GRANT.

President Johnson signalized the event by a message to Congress, December 5, 1865, stating that "the rebellion" (his language not mine) "had been suppressed; that the United States are in possession of every State in which the insurrection had existed; and that so far as could be done the courts of the United States had been restored; post-offices had been re-established, and steps taken to put into effective operation the revenue laws of the country." He said that "the Southern States," (naming Mississippi among them) "have re-organized their respective State Governments, and are yielding obedience to the laws and Government of the United States with more willingness and greater promptitude than under the circumstances could reasonably have been anticipated; the amendment abolishing slavery had been ratified, and that measures had been adopted, or are now pending, to confer upon the freedmen, the rights and privileges which are essential to their comfort, security and protection." His message was supplemented by a report from General Grant who had been directed to make a tour of inspection through the Southern States. In this report, dated December, 1865, General Grant said: "With the approval of the President an

Secretary of War, I left Washington City on the 27th of month for the purpose of making a tour of inspection in Southern States. . . . I am satisfied that the mas thinking men of the South accept the present situatio affairs in good faith. . . . There is universal acquiescenc the authority of the general Government, &c. . . . observations lead me to the conclusion that they (the citi of the Southern States) are anxious to return to self-gov ment within the Union as soon as possible; . . . they are in earnest in wishing to do what they think is quired by the Government, not humiliating to them as zens, and that if such a course was pointed out, they w pursue it in good faith."

THE STATE, NEVERTHELESS, PUT UNDER MILITARY DESPOTISM.

After such prompt compliance with every demand w had been made by the United States authorities, and the c plete accomplishment of the purposes of the war as decl by the resolution of July, 1861, future generations in st ing the history of those eventful times, will be amazed shocked that the party which dominated the Government fused to recognize the right of the State to be restored to Union; refused to admit her Senators and Representat to Congress; abolished her Government with its Constitu prohibiting slavery; obliterated every vestige of civil thority, and divided the seceding States into five

"MILITARY DISTRICTS"

subject to the control of officers of the United States A with soldiers in readiness to execute their orders. In a w all the time-honored safeguards of freedom were set a and the will of these military chiefs became the supreme They were clothed with autocratic power over the unf *nate inhabitants* who had been promised restoration to *Union* "with all the dignity, equality and rights of the *unimpaired.*" The pretended motive for this arbitrar *ure was that* "the civil governments in the rebel St

not legal governments." It has been seen that this was an assumption utterly without foundation.

The military governments were characterized by the most horrible excesses. Their establishment was preliminary to a call by each of the military commanders, for conventions to frame other constitutions, and impose other conditions not embraced in the resolution of July, 1861, harsh, vindictive and humiliating. A very large number of capable and patriotic white citizens, though they had renewed their allegiance to the Union, were debarred from voting in the election of members to the convention. Test oaths with fearful penalties were devised for the exclusion of the proscribed classes. With these exceptions, every male person of legal age, resident in the state, including negroes who

DID NOT KNOW WHAT VOTING MEANT

and were totally ignorant of the responsibilities of citizenship, were authorized to vote and to become members of the convention on which was devolved the momentous duty of framing the organic law of the commonwealth. The bill provided complete machinery for putting the scheme into execution. It was as repulsive as it could be made to men "in whose veins the blood of freedom circulated." The hapless people were put in a fearful dilemma, between the devil and the deep sea. Their only escape from the horrid rule of inexperienced and (in some instances) brutal military chiefs, was through the wilderness of a civil government framed by alien rascallions and ignorant negroes. Outraged by previous bad faith and despairing of being able to propitiate the dominant party of the Union, many worthy citizens who had been active in the plan originally prescribed by President Lincoln and adopted by his successor for restoring the State to the Union, made, as I then thought, and still believe, the mistake of standing aloof and refusing to take part in this latter scheme of reconstruction, but in justification of their course, to quote the language of John Q. Adams, of Massachusetts, it should be *remembered that the* authors of the measure, "had scorned *their protests, repelled* their aid, insulted their misery, and *flicted on them an* abasement which they fer to be intol-

able, in posting over them their slaves of yesterday, to secure their pledge of submission to the Constitution of the United States." In a few counties capable and patriotic men were elected to the convention, but they were shining exceptions to the rule of ignorance and depravity which pervaded what became memorable as

THE BLACK AND TAN CONVENTION.

The reconstruction acts were general invitations to unprincipled adventurers, offscourings of the white race, from every part of the country, to come and ally themselves with the late slaves, and organize a local government which, while serving as an agency of plunder, would increase the strength of the dominant party in both branches of Congress and the electoral college. In the qualities of ignorance, corruption and depravity, the convention was all that the imagination could conceive. It was a fool's paradise for the negroes who undertook to perform what they were incapable of doing, and as to their mercenary white leaders, "the stream of purpose which ran through all their actions was plunder and revenge." Not one of the authors and abettors of the plan, was actuated by a higher motive than party success. Not one of them believed that it would promote the restoration of the Union to substitute the rule of knaves and negroes, for the State governments which they had overthrown. They knew the depravity of the white renegades whom they had commissioned to do this work, and they knew (to employ the language of a Northern statesman and Union soldier) that "in the whole historic period of the world, the negro race had never established or maintained a government for themselves," much less had they shown their competency to govern the white race. The convention dragged its slow length through many long, weary months. Its members lived in a state of luxury unknown to their previous habits. They voted themselves ten dollars a day and paid their innumerable employees wages *correspondingly* high. Its cost aggregated nearly a quarter mil*lion of dollars* which they extorted from the impoverished *white people* at the point of the bayonet wielded by the mili*tary chiefs* who were holding them in subjection. One of the

tax bills, however, was so manifestly a robbing device, so cruel and extortionate, that even the commanding general moved to compassion, interposed his autocratic power and annulled it. Many of the members had no local habitation in the counties they pretended to represent, nor employment except as law makers for the people among whom they did not reside, and over whom they had come to rule. When the labors of this motley assembly came to an end,

THE INSTRUMENT WHICH THEY CALLED A CONSTITUTION,

proved to be worthy of its parentage: "a league with death and a covenant with hell." If it had been permitted to stand as it came from the hands of its authors, it would have permanently disfranchised many of the intelligent tax-payers and best citizens of the white race. It was a cunningly-devised scheme to create a multiplicity of offices, and to make the State government a close corporation for the benefit of the cormorants. It professed to "establish justice," and yet it would have excluded nearly one-half of the intelligent white citizens of the State from participation in the government, other than in bearing its burdens. It pretended that it was designed to "maintain order," and yet it contained the germs of inevitable disorder. It professed that it was designed to "perpetuate liberty," and yet it would have practically enslaved a large number of the free born white people of the State. The test oath which it prescribed, according to the testimony of one of the conspirators, was intended "as a permanent feature of the constitution for all offices from Governor to Constable." (Tarbell's testimony before Congressional Committee, 276.) It went to the extreme of disfranchising those who had charitably contributed to the relief of sick and suffering Confederate soldiers. The father who had furnished food and raiment to his son serving in the Confederate army, was made to pay the penalty of political death unless he would purge himself of the imputed crime by taking the oath that he had not been guilty of it. The colored man who had voluntarily remained at home, and raised corn and meat for the subsistence of the Southern soldiers, could not have voted without incurring the penalty affixed to the offense.

It is the purpose of the writer to note only the proscriptive features of the constitution though it contained many

OTHER ODIOUS PROVISIONS.

It authorized the creation of sinecures without limit. Its authors did even worse. They empowered the Legislature to supersede the time-honored and impartial system of trial by jury of the vicinage, by providing for the indictment and trial of persons charged with crime in any county other than the one in which it was alleged to have been committed (Art. 12, Sec. 4). Transportation for trial was one of the grievances enumerated by the signers of the Declaration of American Independence against the British crown, and for resisting which, they made their appeal to a candid world. And even worse, the wicked defiance of the law of Almighty God to divide human beings into distinct races, and the institution of a beastly system of mongrelism usually called "social equality," cropped out in every part of the scheme. The intent was shown in the public school system for which it provided, and in the clauses relating to public conveyances and to State charitable institutions. These provisions, according to their original intent, have passed into "innoxuous desuetude" under the invincible determination of the white race, but this does not change their meaning, and the design of the framers.

THE PROPOSED CONSTITUTION REJECTED.

The supplementary reconstruction bill provided that the Constitution should be submitted for ratification to the persons who were allowed to vote on the question, within thirty days. With a determination born of desperation, the white people of the State arose in a body and concentrated their energies to reject the proposed constitution. By the force of will resistless as the cyclone when it takes its march, and *which* swept multitudes of colored men into their movement, *the scheme* was rejected, and with it the men who had been *selected by* the adventurers to fill the offices they had created. *But now* comes

A STILL DARKER CHAPTER

history of these disgraceful times. The authors of the tution, disappointed by the failure of their scheme, d to abide by the decision, though the election upon the on of ratification was held under the rigid regulations rict surveillance of the military commander, who, on stated that he had held a fair election; that his subordi- "were selected on account of their firmness, experience, oral character;" and that "they were all officers of the army who had served during the rebellion." To "a fair election" he had stationed troops at sixty within the State, and they were promptly sent to every "where reports were made that intimidation was threat- The whole business was in the hands of the military. nly privilege which the commander vouchsafed to the residents was to vote, and even this privilege was de- o a large number of them. The right of freely discuss- was frequently interfered with. Nevertheless, it was aside by the aroused people like chaff before the wind, al instance of the utter impotence of any device, how- unningly contrived, to hold the white race in permanent tion to the rule of an inferior race.

HOW THE CONSPIRACY WAS WORKED.

would be tedious to narrate the unscrupulous means were employed to force the disfranchising Constitution an unwilling people. The conspiracy was worked y by a "committee of five," who issued a manifesto, ing that the counties of Carroll, Copiah, Chickasaw, , Lafayette, Rankin and Yallobusha, had been carried t the Constitution by fraud, intimidation and violence, ould be deprived of representation in the Legislature, ate offices, and in Congress. The petition to the Fed- thorities to put the proposed Government into opera- notwithstanding the rejection of the Constitution, was *ted by perjured* testimony, imputing the most out- *crimes to the* persons whom they sought to place *ermanent* disability. A specimen of the pretended

testimony of the baffled conspirators will suffice: One "T. W. Stringer," a colored importation from Ohio, swore that the late venerable Chief Justice Sharkey, whose life had exemplified the Christian virtues of peace and good-will to men, at the head of an armed band, had assaulted the "Committee of Five" when engaged in its virtuous task of investigating the election; and that the military commander himself did not perform his duty faithfully in the management of the election. Also, that "in a fair election twenty-five colored men would not have voted against the Constitution," notwithstanding its proscriptive clauses.

On the recommendation of President Grant, Congress passed an act providing for another election, which secured to the people an opportunity to vote upon the disfranchising clauses separately, and at the same time for State officers, members of the Legislature, and Representatives in Congress. The scheme included the sanction of the Fourteenth and Fifteenth Amendments, which incorporated in the Constitution of the United States suffrage in the States without regard to race, color, or previous condition. It was a revolutionary measure, violative of the compact of Union, which required that the Constitution should be amended by the voluntary action of the States and not by the declaration of Congress. It was a departure from the resolutions which passed that body in July, 1861, declaratory of the purposes of the war. This election was held on the 30th of November, 1869. Driven to the alternative of a choice between military despotism and a local government under the constitution as changed, the white people chose the latter, with the hope of discarding the organic law made by the carpet-baggers and negroes and reëstablishing home rule in the not distant future.

Meantime, the adventurers had industriously, and by the most insidious method, drilled the negroes, who composed a large majority of the voting population, into partisan activity. They organized them into secret conspiracies, known as

LOYAL LEAGUES,

and with oaths, bound them to do their bidding. By appeal *to their fears* and to their instinct of race, and by decep

mises of blessings which they could never realize, and di-
ing with them the innumerable offices for which provision
made in the Constitution they had artfully framed, the
roes became for six years pliant instruments in the hands
the adventurers. The purpose of the organic law which
had originated, and their every device, tended to the one
ect of robbing and luxuriating upon, the labor of the im-
erished people. Having the entire election machinery in
r control and the army at their command, they secured
r-fifths of the Legislature (the white counties having been
rived of equal representation by a discriminating and
uitous apportionment), elected their ticket for State
ers and Senators and Representatives in Congress. In a
d, mongrelism, ignorance and depravity were installed.
State had been "reconstructed" after the most approved
ion of Thad. Stevens, Charles Sumner, O. P. Morton,
n Sherman and other great Republican leaders, who looked
placently on their work and said it was good. The
islature was composed mainly of

NEGROES AND CARPET BAGGERS,

a small ingredient of honest and capable citizens of
te counties which had been allowed meagre representa-
. One of the persons elected to the United States Senate
a negro, a new-comer from some other part of the coun-
; and the other was Adelbert Ames, an army officer who had
erintended the election and of whom it was truthfully
by Hon. J. L. Alcorn, another Republican, "He does
live here; he has no interest in Mississippi except simply
old an office as long as that office continues; and when
office ends, he is done with Mississippi." He was subse-
ntly transferred from the United States Senate to the
e of Governor. The most becoming act of this adven-
r was his resignation of the latter office and departure for
home in the North pending articles of impeachment.
ry department of the State government was in the con-
of the adventurers and negroes. The latter race had a
rity in the Legislature, and on several occasions, drew

the color line and asserted their supremacy. It c
readily seen that "reconstruction" meant

ORGANIZED WAR BETWEEN THE RACES.

There could be no peace, prosperity nor order in a
thus governed. The era of mongrelism was an e
anguish and antagonism; an era of fraud and profl
The authorities of the State did not reflect the will nor
mote the welfare of the people. Unprincipled advent
and their illiterate and ambitious negro allies, rule
robbed. Justice was bought and sold. Taxes amount
confiscation. Labor was robbed of its earnings. The c
of strife like "a fury crowned with thorns" was t
loose. Chaos had come again. It should be remem
that at the close of the war, the people of Mississipp
been brought to the lowest depths of poverty, always exc
the Dugald Dalgettys, who, professing to be on either si
occasion offered, levied contributions on both. Lanc
found their estates encumbered and run to waste. They
pursued with remorseless greed by rapacious cre
Their laboring capital was gone. Their dwellings
dilapidated or totally destroyed. Their gin houses
dismantled or burned. Their fences rotted down. The
chants, finding their means swept out of existence,
forced to compromise with creditors upon terms which
other circumstances would have been discreditable. Th
dition of the emancipated race was deplorable. Tradi
slaves, the responsibilities of freedom and citizenship
put upon them suddenly when they were incapable of b
them. The idea they had of freedom was that it
relieve them of the necessity of labor, and license th
live in idleness, and to indulge in whatever propensity
might desire to follow. Every expedient was devise
their self-constituted guardians to mislead, to deceive an
them of their scanty earnings. A

GIGANTIC SWINDLING AGENCY

known as the Freedmen's Savings Bank, was establi
Washington, with branches extending through t

s of the South, by the pretended benefactors of the nen. Into this concern they were induced to deposit small earnings, which were greedily seized and appropri- by the human vultures. These deposits have not yet returned, and though nearly all of the original victims passed away, claim agents, in the hope of reaping a d, are beseiging Congress for an appropriation to refund out of the Federal treasury. While white and black struggling in the

SLOUGH OF A COMMON CALAMITY,

"reconstruction" as I have described was inaugurated. arious departments of the State government were filled e most part as Horace Greeley said, by "rascally advent- and refuse of Northern society who came South, out at s to make their fortunes;" negroes, many of whom, ot know the first letter in the alphabet, and scallawags vere natives to the soil and readily became participants gathering up the wreck" as their nefarious occupation ppropriately called. The government managed by these , it may be imagined greatly aggravated the misfortunes people. In an address dated October 8th, 1875, upon ecrease of property values during five years of their it was demonstrated that it had produced widespread ction, that the cormorants were devouring more than iling people could make by the utmost industry and my. The progress from the lower deep of desolation to ower depths was going on with frightful speed. Under ganic law framed for the purpose of encouraging such , the Legislature, constituted mainly of the same material composed the Mongrel Convention, multiplied offices e benefit of drones, originated jobs, and voted appropri- for the enrichment of rings. The halls, lobbies and ittee rooms of the capitol swarmed with harpies. Igno- and knavery, inside and out, contended for the mastery *intelligence and honesty.* The stream could rise no *than its source,* and was therefore polluted and corrupt. *Judiciary* was partisan, not only in the sense that it

was composed of members of one political organization: but with rare exceptions, they draggled the ermine in the mire of partisan politics, and prostituted to party ends the influence reflected from their positions. Judges were appointed on political grounds without reference to qualification; and the selection of incompetents was of frequent occurrence. As the property rights, and personal security of every individual in a community, depend on the wisdom, integrity, and stability of the courts of justice, a learned and upright judiciary is a public blessing; but the sum of all curses is a judiciary that is weak, incompetent and corrupt.

The Executive Department lavished large sums for which no account was rendered, on partisan favorites employed in the despicable capacity of spies, always a favorite custom of despots who wronged, and feared, the people. This department had the ready co-operation of the Legislature, in all those infamous schemes of the reconstruction era, such as the Picked Cavalry and the Gatlin gun bills for terrorizing the people; the bill to carry into effect the clause of the constitution authorizing the transportation of persons for trial to counties remote from the places where their offences were alleged to have been committed, the Pearl River Navigation swindle and kindred measures. It was a custom of the Governor in derogation of the honor and dignity of the State, upon pretexts created by his own machinations to call upon the federal government for troops to keep the peace, to enforce his decrees and to interfere in State elections. This practice was contrary to the traditions of a free people, and has ever been especially repugnant to the people of this country. The colonists before they separated from Great Britain indignantly remonstrated when troops were stationed in their midst, and notified the government of that country that they would not deliberate in their assemblies while troops were stationed in the vicinage. The English-speaking people have ever regarded a standing army at the polls as the deadly enemy of freedom.

An act of Parliament passed in 1735, directed that no troops *should be quartered* at any place where an election was to be *held.* *Gov. Ames*, not unmindful of the repugnance of the people [illegible] States to the continued use of troops in

the States of the Union, with shameless effrontery on the 11th of September, 1875, repeated the call which he had made on the President for additional military force, saying: "I am aware of the reluctance of the people of the country towards national interference in State elections, (by the use of troops). . . . Permit me to hope that the odium of such interference will not attach to the President, or the Republican party. Let the odium in all its magnitude descend upon me." He said it was an

"AN ISSUE OF RACE,"

and nothing less than the military power of the United States could settle it." This "issue," it will be borne in mind, was an inevitable consequence of the plan of "reconstruction" which had been devised pretendedly to maintain "unimpaired," "the dignity, equality and rights of the several States."

Under pretence of an educational system wasteful appropriations were made. The chief ground of complaint by the impoverished tax-payers was that the system instead of being a nursery of useful knowledge, honesty and correct principle in the training of the youths of the State the way they should go, became in fact the convenient cover for all kinds of plundering schemes, jobs in school books, jobs in school buildings, jobs in school furniture, jobs in everything. School warrants were depreciated to afford operators the opportunity of speculating and amassing fortunes. The highest rate of compensation was paid for the lowest standard of qualification. The head of the department was an embezzler, forger and thief, who wound up his career by fleeing from the State to avoid the penalty of his crime. Speaking of this refugee naturally reminds me of the Penitentiary.

This institution had been self-sustaining before the war. Its well-trained muscular labor ought to have more than indemnified the State after the war, but it became a heavy burden, costing on an average during the six years of carpet-bag misrule the large sum of seventy-seven thousand dollars per year.

Its financial policy was a model of

PROFLIGACY AND EXTRAVAGANCE.

It was described in language more forcible than I can command, by the late Henry Musgrove, Auditor of Public Accounts during the first four years of misrule. In his report of January 1st, 1874, he said: "For the past three years, and the present one now before you, in no single instance have the receipts proper reached the expenditures of any year; but on the contrary, the latter have far exceeded the former, and hence a debt of considerable magnitude has increased year after year."

Governor Ames, in his message of January 4, 1874, bore testimony to the deplorable financial condition, saying: "The state is in debt, her credit is impaired." For the increase of indebtedness from a mere song to several millions, there was nothing to show except the depression of all kinds of industry and an alarming diminution of the property values of the State. Deplorable is the fate of a people whose agents habitually make larger appropriations from their treasury than can be collected by the most grinding system of taxation. It eats up the fruits of toil. Destroys values. Depresses business. Imposes upon them the most exacting of task-masters, an oppressive public debt. Such was the system declared to have been put in practice during the "reconstruction" period. The anomaly existed of an increase of the public debt in proportion to the increase of taxes. The decrease in property valuation during these six years of maladministration amounted to forty millions of dollars. Six million four hundred thousand acres comprising twenty per cent. of the lands in the State, had been forfeited for non-payment of taxes. After they were confiscated they ceased to be taxable, and the taxes upon those which remained in the possession of their owners, were proportionately raised.

THE TAX-PAYERS' PRAYER.

The tax-payers assembled in a State convention to consider *their wrongs*; and on the 4th January, 1875, addressed an *earnest petition* to the Legislature for relief. From this ing extract is made:

"To show the extraordinary and rapid increase of taxation imposed on this impoverished people, these particulars are cited: In 1869, the state levy was ten cents on the hundred dollars of assessed value of lands. For the year 1871, it was four times as great. For 1872, it was four times as great. For the year 1873, it was eight and a half times as great. For the year 1874, it was fourteen times as great. The people are poorer than ever before. . . . The aggregate amount of taxes levied on us, in our poverty, greatly exceeds the amount levied on us in prosperous days. Thus as the people become poorer, are their burdens increased. In many counties, the increase in the county levies, has been still greater." Hon. George C. McKee, then and now, a trusted Republican leader, wrote: "I would beg you to bear in mind that there is no fear of cutting too deep. The evil is enormous. The petition of the tax-payers should be heeded." Hon. George E. Harris, Republican Ex-Attorney General, and member of Congress, in an open letter to a political associate, said: "The people are in a state of exasperation, and in their poverty and desperation they are in arms against the burden of taxes levied and collected on their property. They have made a respectful appeal to the Legislature for relief." But the respectful appeal of the tax-payers was treated with contempt. It was laughed to scorn by the adventurers and negroes into whose keeping "reconstruction" had been committed, the affairs of the state. And thus the condition grew from bad to worse. The curses of Pharaoh had come again. They were not frogs. They were human vultures who gnawed like consuming cancers into the substance of the people.

INFAMY AND DISGRACE CONSTANTLY INCREASING.

In reading the foregoing sketch of the evils produced by "reconstruction" upon the plan enforced by the dominant party of the Union, the public will discern the accuracy of the following description of the Southern State governments *made at the time by a* prominent Northern statesman, Hon. *Eugene Hale, a United* States Senator from Maine.

"*The infamy* and disgrace of certain Southern State go

ernments have been constantly on the increase. . . . There have been bad men in those states who have bought power by wholesale bribery, and have enriched themselves at the expense of the people by peculation, or open-handed robbery. Corruption and anarchy have occupied and possessed these unfortunate States."

True to the life. If corruption was sought it was here. If knavery, it was here. If ignorance, it was here. If "anarchy," it was here. The wickedness and folly of forcing the negro into collision with the white race was apparent. The criminal intent to install the former as the ruler of the latter was so gross a violation of nature's laws, that it forced the whites to ignore all other considerations and unite as one man for self-protection. The adventurers were reckless and depraved. The negroes were intoxicated by the dizzy height to which they had been suddenly raised. The attempt of sectional agitators and philonegrists to reverse the abnormal relation of the two races produced the inevitable consequence of strife and bloody conflict. It was worse than folly to suppose that the negro who had through all the ages shown his utter incapacity for self-government could be elevated from a state of slavery into the rulership of the race which history teaches had sometimes been forced to succumb to superior numbers of its own kind, but had never bent the suppliant knee to an inferior race. In Mississippi, the vigilance, fortitude, courage, and natural force of the white race prevented a repetition of the histories of the negro countries of Hayti and San Domingo where the comparatively few whites residing in the islands when emancipation was proclaimed were either massacred or banished.

RESCUED FROM MISRULE.

It has been seen that in 1869, a determined effort enabled the white people to defeat the scheme for their permanent disfranchisement. In 1875, by a similar resolute endeavor, they succeeded in rescuing the State from the misrule which I have sketched.

In an address to the ensuing Democratic State Convention

Hon. J. Z. George, Chairman of the State Executive Committee said: "For the past six years our struggle has been to overthrow misrule and to secure the opportunity of self-government. We were then without a policy beyond the determination that economy should supersede waste, and honesty and competency should expel vice and ignorance from official life. The particular measures by which a people can be made great and prosperous did not engage our attention. Now it behooves us to consider what measures will most advance us, and see that they are adopted."

When this address was delivered a Democratic Legislature had already been elected. Governor Ames had resigned and left the State. A Democrat (Hon. J. M. Stone) by virtue of his election as presiding officer of the State Senate, had been installed in the office of Governor, and measures had been taken to arrest the downward course of the State. It was a saying of Edmund Burke that in England from the earliest times the great battles for freedom had been fought on the question of taxation. Here in Mississippi it had been fought on the questions of taxation and of social order. The first step of the reformers was to reduce the one and establish the other. They hastened to lift the burden of superfluous taxes from the shoulders of the oppressed people; to dismiss supernumerary officials; to improve the common school system; to abolish sinecures, and to reduce salaries. State taxes were reduced from 9½ mills on the dollar to 2½ mills. The taxing power of county boards of supervisors was restricted. It had been shamefully abused. In the counties where the colored element predominated, taxes had ranged anywhere from 15 to 50 mills on the dollar. To prevent this abuse, a law was passed prohibiting boards of supervisors from levying taxes for county purposes which added to the state tax, would exceed 12½ mills on the dollar, except for indispensable purposes. The State was placed on an honest financial basis, by which her depreciated bonds were brought to par. The levee system was improved. The cumbrous and expensive system of holding elections was superseded by a simpler and more economical one. Of the 6,400,000 acres of land which were forfeited for non-payment of the excessive taxes imposed, all exce

250,000 have been redeemed. Property valuation has been largely increased. Outside capital, too cautious to trust itself to a state administration in which ignorance and corruption were the rule, and capacity and integrity the exception, commenced seeking investment in all kinds of industrial enterprises. In 1870, there were in round numbers but 800 miles of railroad in the State. In 1889, there were 2,100 miles. In the public school system the improvement has been marked. For educational purposes, the whites pay 90 per cent. of the taxes, and realize in the schooling of their own race about 40 per cent. A careful investigation of the educational reforms in Mississippi, in common with the other States of the South, has induced a Northern educator, Rev. Dr. A. D. Mayo, eminent alike for his learning and philanthropy, to declare that "no other people in human history has made an effort so remarkable as the people of the South, in re-establishing their schools and colleges. Overwhelmed by war and bad government, they have done wonders," (he continues,) "and with the interest and zeal now felt in public schools in the South, the hope for the future is brighter than ever." He added: "Last year these 16 states paid nearly $1,000,000 each for educational purposes, a sum greater according to their means, than ten times the amount now paid by most of the New England States."

This statement of the eminent Massachusetts educator and philanthropist, is fully verified as to Mississippi, by the report of the State Superintendent of Public Education for the year 1889, wherein it is shown that the State appropriated $1,209,343 for school purposes, on a total assessment of property amounting to $157,518,906, and that the number of children enrolled in her public schools are 148,435 white and 172,552 colored.

Mr. Spooner, of Wisconsin, a distinguished Republican leader, in a speech in the United States Senate, delivered as late as March 3, 1890, fully supports the glowing report of *Dr. Mayo.* He says:

"*The South,* since 1880, not only has grown with wonderful rapidity, justifying the pride with which her people declare to the world their material resources, but she has grow

since 1880, marvelously in the matter of common school education."

Fortifying his statement with unanswerable figures, he adds:

"I am brought to the proposition that the Southern people have not only been doing well since 1870 and 1880 in the education of white children, but they have been doing well in the education of colored children."

In the same connection, he utters the indisputable truth, that "the burden of the expense is mainly defrayed by the white people of the South."

Statistics show that Mississippi has kept abreast with her sister commonwealths of the South.

And so there has been a long stride in the

MARCH OF IMPROVEMENT,

in every element which makes up the sum of public prosperity. While no profane attempt has been made to annul the distinctions which Infinite Wisdom has established between the Caucasian and the negro races, nor to bridge over the chasm which He has created, by devices born of fanaticism, the negroes, under white rule, have been afforded all the blessings of just and impartial laws. Convinced of the safety of their persons and property, they would become entirely contented, if their fears and the natural antipathy of race, were not aroused by sectional agitators and fanatics.

The object of this paper is to fix the responsibility of "reconstruction" and its disastrous consequences, where they belong, not to extol the intelligent and honest rule of the white race. An estimate of what the State suffered by the alien and negro rule resulting from the plan of reconstruction unwisely and needlessly enforced, can be formed by contrasting the losses on the one hand, with the gains on the other.

WHAT ABRAHAM LINCOLN TAUGHT.

In clothing the negro with the weighty responsibilities of government *when he* was utterly unfit for them, the authors of *the measure acted* not only in defiance of all the lessons

history, but of the teachings of the statesman whom they professed to revere above all others. In his letter of March 13th, 1864, to Michael Hahn, of Louisiana, President Lincoln wrote: "You are about to have a convention, which will probably define the elective franchise. I have a suggestion for your private consideration, whether some of the colored people may not be let in, as, for instance, *the very intelligent, and those who have fought gallantly in our ranks.* . . . But this is only a suggestion," etc., etc.

Mr. Lincoln, it will be seen, was not even clear in the opinion that even the "very intelligent negro," and the negro who had fought "gallantly" for his freedom, should be allowed to vote. He could not have tolerated the plan of admitting to suffrage the entire mass of ignorance and total incompetency as provided in the plan of "reconstruction." This is in accord with the well-matured opinion he had previously declared on the subject of negro capacity for self-government. In 1858, he said: "I am not, and have never been, in favor of bringing about, in any form, the social and political equality of the white and the black races. There is a physical difference which forbids them from living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together, there must be the position of superior and inferior, and I, as much as any other man, *am in favor of having the superior position assigned to the whites.*"

Thus spoke Abraham Lincoln. But in the plan of "reconstruction" forced upon the Southern States, the doctrine which he declared was reversed, so far as it applied to Mississippi and other Southern States in which there was a majority of the "inferior" race.

Nor could the illustrious prophet of Republicanism have tolerated the plan of turning the Southern States over to

CARPET-BAGGERS AND FEDERAL ARMY OFFICERS,

who, taking advantage of their positions, secured their election to office, as in the case of General Ames. In a letter to *G. F. Shepley*, in relation to the Government of Louisiana, *dated November* 21st, 1862, Mr. Lincoln wrote:—

"Mr. Kennedy has some apprehensions that federal officers, not citizens of Louisiana, may run as candidates for Congress in that State. In my view, there would be no possible object in such a course. . . . What we want is conclusive evidence that respectable citizens of Louisiana are willing to serve as members of Congress, and to swear to support the Constitution, and that other respectable citizens are willing to vote for them. *To send a parcel of Northern men here as Representatives, elected, as it would be understood, and perhaps really so, at the point of the bayonet, would be disgraceful and outrageous.*"

Directly opposed to these common-sense ideas of Abraham Lincoln was the policy of "reconstruction" devised and enforced after his death. It was even worse. It was a combination of the two objectionable elements which he described—the negro and the carpet-bagger. We have seen that, under the government of Mississippi succeeding the provisional administration of Governor Sharkey, "respectable citizens" were elected to Congress, "willing to serve, and to swear to support the Constitution," by "other respectable citizens," and were not admitted. Under the mongrel system eventually adopted, "federal officers, not citizens," and "a parcel of Northern men," who had come as adventurers, were elected by the negro majority and admitted as Representatives and Senators. With language aptly applied, President Lincoln characterized such proceedings as "disgraceful and outrageous." Such men were not only sent to represent Mississippi in the national councils, but they were deputed to unite with the negroes to seize the State government, and to have and to hold it for all time. No wonder Rev. Henry Ward Beecher, one of the founders of the anti-slavery party, referring to the overthrow of a similar conspiracy in another Southern State, indignantly proclaimed that it "was sheer madness to place the government of the State in the hands of ignorant negroes and vile carpet-baggers." Said Mr. Beecher, "There never was such a system of taxation and *general government.* . . . Just consider the state of things! *The South has sunk* all its property in a war that had been *bravely fought.* Its young men were decimated, but they a

themselves honestly and sublimely to work. They endured nobly. The class that was suffering all these ills found itself suddenly governed by a majority that a little while ago were slaves. There never was such a subversion in the history of the white people. *"It was monstrous!"*

THE LESSONS OF HISTORY.

In assigning to the negro a part which he was wholly unprepared to perform, and which he could not undertake without bringing calamity upon himself, as well as the whites, the parties to the plot acted not only in defiance of the admonition of their idolized statesman, but of the warnings of history with its "philososophy teaching by example." The learned English historian, Allison, in describing the experiments of negro rule in the West Indies, says, it has demonstrated that the negro "does not possess the qualities requisite to erect a fabric of civilized freedom." Mackenzie, in his work on St. Domingo, says, that "it is impossible to arrive at any other conclusion but that in the qualities requisite to create and perpetuate civilization, the African is decidedly inferior to the European race, and if any doubt could exist on this subject, it would be removed by the subsequent history, and present state of the Haytien government." Sir Spencer St. John, formerly English minister resident at Hayti, in giving the result of his observations after personally knowing the Haytien Republic for twenty-five years, says:

"I know what the black man is, and I have no hesitation in declaring that he is *incapable of the art of government*, and that to entrust him with framing and working the laws for our (the English) islands (West Indies) is to condemn those islands to inevitable ruin. What the negro may become after centuries of civilized education, I cannot tell, but what I know is, he is not fit to govern now." "In spite," he says "of all civilizing elements around the Haytiens, there is a distinct tendency to sink into the state of an African tribe." After ninety years of trial, the negro government of Hayti is a mockery in which every form of tyranny and vice is blended, *instead* of progressing towards a higher civilization the

s, he says, "are in a state of rapid decadence." otes from another eminent historian of close observa- James Anthony Froude, the declaration, that in the Republic of Hayti, "there lies active and alive, the e revival of the West African superstition, the serpent p, the child sacrifice, and the cannibalism." In his "The English in the West Indies," written after he ited the Islands and investigated carefully, in order to orrect conclusions as to negro capacity for self-govern- he endorses the opinion of Sir Spencer St. John, and

for the sake of theory and to shirk responsibility these islands are left to govern themselves, the state of stands as a ghastly example of the condition in which ill inevitably fall. If we (the English) persist, we shall ing against light—the clearest light that was ever given affairs." He adds:

e does not grudge the black man his property, his n, his opportunity of advancing himself; one would im as free and prosperous as the fates, and his own ex- can make him, with more and more means of raising to the white man's level. But left to himself and the white man to lead him, he can never reach it. . . . ve a population to deal with, the majority of whom are erior race. Inferior, I am obliged to call them, as yet they have shown no capacity to rise above the on of their ancestors, except under European laws, an education, and European authority to keep them ar upon one another. . . . Give them independence, a few generations they will peel off such civilization have as easily and as willingly as their coats and s."

CONCLUDING OBSERVATIONS.

as to this same inferior race comprising a large majority whole people that the authors of the "reconstruction" *wickedly but,* under an over-ruling Providence, vainly *red to commit* the destinies of Mississippi. It is rea- *o infer that* upon the ordinary questions of govern

mental policy the white people of the state would have differed and ranged themselves under the opposing political banners, but when the "race issue," with its consequences of life and death to their liberty and civilization, was needlessly and cruelly thrust upon them, they were forced into a solid, compact organization in obedience to the higher law of self-preservation which God in His wisdom has instituted; and this organization they will maintain so long as the cause which made it inevitable, remains.

Candor requires that this should be said. A part of the "reconstruction" plan has expended its force. Other parts having been engrafted upon the Constitution of the United States, have remained to plague not the inventor only, but both the white and the negro races in the South. The blunder must now be clear to the authors themselves. It is not the purpose of the writer to ask them to retrace their steps and undo their folly, but may we not hope that under the influence of the sober, second thought, they will permit us to control our domestic affairs as nominated in the bond of union as it now stands, according to our own judgment, and to take care of ourselves as best we may.

ETHELBERT BARKSDALE.

Jackson, Mississippi, March 10th, 1890.

CHAPTER XIII.

RECONSTRUCTION IN TEXAS.

WHAT is known as the ordinance of secession, by which Texas was separated from the United States, was passed in a convention composed of delegates elected by the ople of Texas, on the 1st day of February, A. D. 1861, and on thereafter Texas became one of the Confederate states. the war that followed between the states, it is no more than st to say that Texas discharged her full duty to her sister tes of the South; but when the war closed, aside from the s of property in slaves, the wealth of the state had not en so much impaired as it had been in the other Southern tes. She had not suffered devastation from invading troops, d those of her citizens who were not in the army, had pur- ed their avocations without disturbance. The earth had ought forth abundantly, so much so, as not only to supply e demand for home consumption, but to furnish large sup- ies for those who were in the field. When hostilities ceased, ge quantities of cotton remained unsold in the hands of the nters, and at that time commanded an unprecedented high ice. Farming acreage had been largely increased by those, who th their slaves, had fled from the ravages of the war in ier states, and had found refuge in Texas. The great live ck interests in the state had prospered, and horses and tle were easily converted into cash, at remunerative prices. comparison with the other states of the South, Texas was a prosperous condition, and soon attracted the attention of se adventurers who everywhere became known as "carpet- ggers." *To them* Texas was indeed "a land flowing with *k and honey.*" They sent no one out to spy out the land, *came themselves.* Their name was legion. Their pur

pose was to despoil and plunder. The military governm which dominated the people during the greater part of the construction period, furnished them every opportunity to ca out their thievish purposes. During that period the offices the state, from the judge on the bench to the constable o beat, were largely composed of this class of men, and it is the plain truth to say, that no more ignorant, incompet vicious and corrupt men have ever been permitted by government, to hold official position. To their unparall meanness may be attributed much of the wrong and opp sion that was inflicted upon the people of this state. Un Confederate authority Texas was a part of what was kn as the "Trans-Mississippi Department," and at the term tion of actual hostilities it was under the command of Li Gen. E. Kirby Smith, who through Generals Buckner Price, surrendered the Department to General Canby, of United States army, at New Orleans, on the 27th day of M 1865. On the 17th day of June, A. D. 1865, Andrew Jo son, President of the United States, issued his proclama appointing Andrew J. Hamilton provisional Governo Texas, whose duty it was stated in the proclamation to be prescribe such rules and regulations as may be necessary proper for convening a convention composed of delegate be chosen by that portion of the people of said state who loyal to the United States, and no other; for the purpos altering or amending the Constitution thereof; and with thority to exercise within the limits of said state all the p ers necessary and proper to enable the loyal people of state of Texas to restore said state to its constitutional r tions to the Federal Government, and to present such a publican form of state government as will entitle the stat the guaranty of the United States therefor, and its peopl the protection of the United States against invasion, insur tion and domestic violence."

Governor Hamilton was a native of Alabama, but *been a citizen* of Texas for many years. He was in m *respects* a remarkable man, and had been more than *elected to high* official position by the people of Texa *at the time of* secession he was a Representative from

in the Congress of the United States. Hamilton was a man of generous impulses, and of extraordinary intellectual power, but was erratic and unstable in his opinions. At one time he was greatly admired by the people of Texas, and for years before the war they delighted in calling him "Colossal Jack," which was but an appropriate indication of his intellect and great oratorical ability. He had opposed secession, and shortly after the commencement of hostilities, had placed himself within the lines of the Union forces, where he remained until the war was over, but at no time did he take up arms against the South. Some complaint was made because of his delay in calling a convention to form a Constitution. But after having re-organized the state by appointing all county, district and state officers except Judges of the Supreme Court, he, on the 17th day of November, A.D. 1865, issued his proclamation for the election of delegates to a convention, which assembled on the 7th day of February, 1866, and framed a Constitution that was submitted to the voters of the state, ratified, and the officers of the state therein provided for, elected on the 25th day of June, A.D. 1866.

Notwithstanding, many of the citizens of the state were then under political disabilities and could not vote, the Democratic candidate for Governor, Hon. James W. Throckmorton, received 49,277 votes, and his opponent, Hon. E. M. Pease, a Republican, received only 12,168 votes. Governor Throckmorton had lived in Texas from his boyhood, and had served his state for many years in the capacity of a legislator, and was distinguished for his ability, patriotism, purity of character and unflinching courage. He was opposed to the secession of the Southern states from the Federal Union, and had exerted his influence to prevent it, and as a delegate in the secession convention in 1861, voted against the passage of the ordinance which declared the separation of Texas from the Union. But while he looked upon secession as impolitic and ruinous, he looked with scarcely less dread upon that doctrine which asserted an undefined and unlimited power in the general government to use its military force against the states, and he followed the fortunes of a majority of

his fellow-citizens, and shared with them the fate of the conflict.

He was inaugurated and entered upon the discharge of his duties as Governor, on the 9th day of August, 1866, and no man in that high position was ever surrounded by more embarrassing circumstances, or confronted with greater difficulties. He had a full appreciation of his situation, and clearly perceived the obstacles that he had to overcome, as is manifest from the following passage in his inaugural address viz.:

"At a time like the present, when we have just emerged
"from the most terrible conflict known to modern times, with
"homes made dreary and desolate by the heavy hand of war
"the people impoverished under public and private debts
"the great industrial energies of the country sadly depressed
"occupying, in some respects, the position of a state of the
"Federal Union, and in others, the condition of a conquered
"province, exercising only such privileges as the conqueror in
"his wisdom may allow; the loyalty of the people to the
"general Government doubted; their integrity questioned
"their honest aspirations for peace and restoration disbelieved
"maligned and traduced, with a constant misapprehension of
"their most innocent actions and intentions; with a frontier
"many hundreds of miles in extent, being desolated by
"murderous and powerful enemy; our devoted frontiersmen
"filling bloody graves, their property given to the flames or
"carried off as booty, their little ones murdered, and their
"wives and daughters carried into captivity more terrible
"than death, and reserved for tortures such as savage cruelty
"and lust can alone invent; unprotected by the Government
"we support; with troops quartered in the interior where
"there is peace and quiet; unwilling to send citizens to de-
"fend the suffering border for fear of arousing unjust suspi-
"cions as to the motive; with a heavy debt created before the
"late war, and an empty treasury; with an absolute necessity
"*for a change* in the laws to adapt ourselves to the new order
"*of things*, and embarrassments in every part of our interna
"*affairs*; under such circumstances, with such surrounding
"*when so much* depends upon prudence and so great

"amount of patriotism and intelligence is required, I feel "sadly oppressed with the duties which lie before me."

But, notwithstanding the almost insuperable difficulties that stood in his way, the Governor, assisted by the Legislature, went bravely to work to bring order out of chaos, and to restore proper relations between the state and Federal Government. The convention that had framed the Constitution, and which was composed of men of all political parties, had done everything required of it to facilitate the restoration of such relations. The abolition of slavery was recognized; the debt created by the war was repudiated; the ordinance of secession was declared null and void, the right of Texas to secede from the Union renounced, and the permanency of the Union and supremacy of the laws of the United States declared. Provision was made for the future education of the negroes; for the equal preservation of their lives, liberty and property, and for the bestowal of other rights and privileges upon them; and the right to vote would have been extended to them had it then been required by the general Government; for our people felt that they had submitted these matters to the arbitrament of the sword; that it had been decided against them, and as brave men it was their duty to submit.

The Governor recommended the enactment of such laws as would in good faith carry out the provisions of the Constitution and ordinances of the Convention, and the Legislature promptly complied with his suggestions. So desirous was Governor Throckmorton that everything should be done by the Legislature to bring about proper relations between the state of Texas and the General Government, that on the 29th day of October, A.D. 1866, he addressed a telegram to President Johnson, and made inquiry if he could offer any suggestion for further action on the part of the Legislature of Texas that would facilitate restoration; to which the President replied as follows:

WASHINGTON, D. C., October 30th, 1866.

GOVERNOR THROCKMORTON:

Your telegram of the 29th inst. received. I have nothing to suggest, *further than urging upon* the Legislature to make all laws involving *civil rights as complete as* possible, so as to extend equal and exact justice *to all persons, without regard* to color, if it has not been done. We shou

not despair of the Republic. My faith is strong, my confidence unlimited in the wisdom, providence, virtue, intelligence and magnanimity of the great mass of the people, and that their ultimate decision will be uninfluenced by passion and prejudice, engendered by the recent civil war; for the complete restoration of the Union by the admission of loyal Senators and Representatives from all the states to the respective Houses of the Congress of the United States. Signed,

ANDREW JOHNSON.

In his efforts to restore proper relations with the General Government, Governor Throckmorton was not without hope that he would be sustained by the sentiment of the Northern people, as was indicated in his message to the Legislature, wherein he said:

"Notwithstanding the difficulties which beset us, and the untoward direction given to measures proposed for the settlement of grave questions growing out of the late unhappy contest between the Government and the Southern States; and notwithstanding the measures so proposed have received the sanction of the National Legislature, yet, my fellow-citizens, with proper conduct on our part, I do not despair of receiving liberal and generous treatment from our Northern countrymen."

He never doubted, and never had cause to doubt, that his own people were desirous of performing all their obligations to the General Government, and this he declared in his inaugural address in the following emphatic language:

"Having been a resident of Texas for a quarter of a century; familiarly acquainted with all her prominent citizens; having served in the councils of the state for fifteen years, and shared the dangers and toils of the late war with her soldiers; recently mingled much with the people and corresponded with them in every section of the state within the past few months, I claim to know something of the actual condition of affairs, and I do not hesitate to declare that the great body of the people are earnestly desirous of performing all their obligations to the General Government. A people who have won *the respect* and admiration of the world for their chivalry, *high daring* and fortitude will not be doubted by generous and *brave spirits* when they assert their loyalty."

It was, indeed, true that the people, after the exhaust

caused by four years of war, were in favor of a restoration of law and order that would give security to life and property. They were anxious to begin the work of rebuilding their shattered and ruined fortunes, and realized that a continuance of a condition of hostility to the Federal Government would be fatal to their hopes and plans. But events, which rapidly followed the utterance by Governor Throckmorton of these words of cheer and hope, painfully demonstrated that the people of the North were not ready to resume fraternal relations with the people of the South. Perhaps there had not been sufficient "cooling time." In spite of State Constitutions, and legislative enactments evincing the honest desire of the people of the Southern States to accept in good faith the results of the war, and to resume their relations with the General Government, the people of the Northern States doubted their loyalty to the Government of the United States, and were especially apprehensive that fair treatment would not be given to the negro. They regarded crime in the South not as an excrescence of society, but as the indirect act of Southern society itself, and deemed it right to assume tutelage over the people of the South.

The breach that occurred between President Johnson and his party, which culminated in the attempt made to impeach him, only intensified the bitterness of feeling at the North against the people of the South, but in less than nine months after the formation of a State Government in Texas resulted in the passage of the reconstruction laws, and subverted civil government, not only in Texas, but in all the Southern States, and in lieu thereof erected a military despotism.

But before the enactment of the reconstruction laws, Texas was in the condition described by her Governor as "occupying, in some respects, the position of a state of the Federal Union, and in others, the condition of a conquered province"; and this anomalous condition of things was a prolific source of trouble and embarrassment in the administration of state affairs. As has been shown, a government for the state, essentially republican in its nature, and the Constitution of which had provided for the changes brought about by the war, had been organized in due form, but the Government

the United States, under the pretence of collecting property that had belonged to the Confederate States, kept within the State a body of soldiers, who were stationed at different points, and some of whom, in small and separate detachments, were kept moving from one place to another.

The "Freedmen's Bureau" had its officers and agents everywhere throughout the state, and in many, if not most instances, they had a military force subject to their orders. These officers and agents of the "Freedmen's Bureau" were, for the most part, a set of unmitigated rascals. Sent to protect the negro against the cruelty and rapacity of his employer, they managed to pluck from him his hard-earned dollars, and not unfrequently they were in the pay of the employer, who, from necessity, submitted to be blackmailed, rather than be subjected to constant and unnecessary annoyance. The presence of the soldiers for the enforcement of law in a time of profound peace, is revolting to an American, and at this unhappy period the conduct of the soldiers was very often of such character as to exasperate the citizens. Where officers were in command who were possessed of a proper sense of self-respect, and knew how to perform their duties, but little, if any, trouble occurred. But, unfortunately, such men were not always in command, and too frequently men were in authority who sought to display their love of country and heroism by oppressing the helpless. Such conduct not unfrequently produced trouble. Many of our citizens suffered in person and in property at the hands of licentious and irresponsible men who wore the uniform and marched under the flag of the United States. One of the most flagrant acts of this character was the burning of the town of Brenham, on the night of the 7th of September, A. D. 1866. It excited great indignation throughout the state. The Legislature was in session at the time, and the Governor very properly and prudently called their attention to the matter.

In compliance with the recommendation of the Governor, *the Legislature* sent a committee to Brenham fully authorized *to obtain the facts*, and from the report made by said committee we learn that on the night of the 7th of September

1866, a party of United States soldiers took possession of a negro ball that was in progress in the house of a colored man in the town of Brenham. The conduct of the soldiers became so indecent as to cause the negroes to abandon their festivities and seek their homes. Infuriated because the ball had ceased, they sought to inflict vengeance upon some of the negro men who had helped to close it. They pursued one of them to a house where were assembled a number of white ladies and gentlemen and within their hearing, in the most profane and obscene language, abused the negro. Upon being informed by one of the gentleman that ladies were present, and requested not to use improper language, they drew their pistols and transferred their abuse from the negro to the white men, and cursed them as *d—n rebels*, and threatened to shoot them, when two of the soldiers were shot, one being seriously and the other slightly wounded. The soldiers then retired to their camp, taking their wounded companion with them, but during the night they returned and fired the town. It was indisputably proved that the soldiers set fire to the town. The evidence showed that the soldiers who committed this outrage acted under the orders of their commanding officer, or that he connived at their conduct. When an officer of the state went to their camp with the authority of the law, to arrest some of the guilty parties, he was informed by the officer in command that the soldiers he wanted had the night before deserted. They certainly had been spirited away and have never been tried for their crime. Quite a number of houses were consumed, and property to the value of one hundred and thirty-one thousand dollars was destroyed. The loss was sustained and divided among about twenty-five persons, all of whom were of moderate means and not able to sustain it. The United States has never paid one dollar of this loss. The burning of Brenham was exceptional only in the amount of property that was destroyed; certainly not in perfidy and wickedness. Numbers of our citizens were murdered by the soldiers of the United States, and, in some instances, were deliberately shot down by them in the presence of their wives and children. In this diabolical manner were W. A. Burns and his son Dallas mu

dered in Gaudaloupe County. From the testimony taken before the coroner at an inquest held upon the bodies of the deceased, we copy the evidence of Miss Sarah L. Burns, the daughter of W. A. Burns, and the sister of Dallas Burns, who was a witness to the horrid deed, and whose testimony was abundantly corroborated by other evidence. After being duly sworn, she testified as follows:

Q. State what you know about the killing ot your father, W. A. Burns, and your brother, Dallas Burns.

A. Between midnight and day on Sunday morning, March 31, 1867, there came a body of men and surrounded the house of W. A. Burns and demanded the surrender of the house and all that was in it, in the name of the United States. My brother Dallas told them to wait until morning and they would surrender. They then tried to open the door, and my brother Matt told them that if they broke open the door, that he would shoot them. They then said that if they did not surrender they would set fire to the house. They then told my father that they would give him until they could count twenty to surrender, and if he did not surrender in that time, that twenty would fire into the house, and forty would remain. When they counted nineteen my father told them to stop. They then told my father that they would give him until they could count five to surrender, and if he did not surrender in that time, they would set fire to the house. They then counted four, and my father told them to stop, that he would surrender. My father then called for the captain, and told him to come in and act like a gentleman, and tell what they wanted. At that time one of the party said, "Here is the captain," and called to the captain and said that Burns wished to see him. The captain came in and several other men at the same time. My father tried to keep back the crowd, and some one of the party said, "Burns, you shall not be hurt." They then remarked that there were four gentlemen in here, and asked if *Dallas Burns* was present, and said to him, "Step out"; *and then said,* "Matt Burns, are you here?" and told him *to "step out,"* and at the same time they commenced firing. *When they* commenced firing I jumped up and ran to th

door and commenced screaming. After the firing had ceased they walked out of the house and were laughing, and about that time there was another shot fired, and I heard some one say, "Oh, my son Johnny, are you hurt?"

Dallas Burns made a dying statement, in which he said, "A body of men came to the house and demanded a surrender. This we refused for some time. The captain then came to the door and talked with father, and told him he did not wish to hurt him, but merely to arrest my brother Matt and myself, under military authority. Upon this we surrendered. The captain came in and made a motion to his men, and a portion of their crowd, say five or six, came into the house and cocked their guns. The captain called for Dallas Burns. I hesitated, and was rather slow about coming out, and the captain said, 'Step out, damn you, and take it, for you have it to do,' when I stepped out in the light and they fired upon me."

After the perpetration of this atrocious murder, the officer who was in command of the soldiers who did it, issued a proclamation in which he denounced citizens of the county as "*rebels*" and "*thieves*," and declared that for the commission of offenses, "*No quarter should be given.*"

It gives no pleasure to record these instances of cruelty and outrage that were perpetrated by the troops of the United States upon citizens of our State, but they serve to show the dangers always incident to, if not inseparable from the exercise of military power. Let no one suppose that the instances given were isolated cases of oppression that might occur under any government, however good. They were of such frequent occurrence as to excite the alarm of good people throughout the state. No Constitutional barriers stood in the way of military authority, and it seemed to have no respect for the rights and privileges that have always been held sacred and inviolable by American citizens. Any good citizen was subject to arrest and imprisonment who had incurred the ill-will of some negro, or the animosity of some *degraded white man,* who, perhaps, had been a blatant secessionist, *but for purposes* of gain, denied his record and loudly proclaimed *that he* had ever been devoted to the Union

Governor Throckmorton had much correspondence with the military authorities in Texas in regard to the various and many acts of oppression which our citizens had to endure, and did everything that could be done for their relief. In one of his letters to General Sheridan, he says:

"I know some of the veriest rogues and scoundrels, who to protect themselves, have applied to the military, and asserted that they were in danger because of their Unionism, when in truth their Unionism was never heard of until after the surrender." This was unfortunately true in too many instances, as is known by those who then lived in Texas. The war had brought about a very upheaval of society, and had thrown to the surface the worst element it contained, and this condition of affairs was recognized by the negro when he said, "The bottom rail has got on top."

But nothing could stop the despotism of hate, and all efforts were unavailing to stay the heavy hand of military power. The reign of terror continued, and outrages upon our citizens were of almost daily occurrence. It would require too much space to give an account of all the oppressive acts of the military, and the wrongs that were inflicted upon individuals in the state. The military authorities professed to abhor crime, and were ever ready to excuse themselves for their arbitrary conduct, because of the necessity of suppressing it, and yet with unblushing effrontery asked Governor Throckmorton that he at once extend his pardon to two hundred and twenty-seven negro convicts in the state penitentiary. These negroes were guilty of almost every offense known to our criminal laws. It was, as a matter of course assumed, that they had not been fairly tried, and that their conviction was the result of prejudice, and a disposition on the part of those who tried them to deny them fair treatment.

The absurdity of this assumption was shown by the Governor in his reply to the application, and as said reply gives a true statement of the treatment of colored persons charged with crime, accorded to them by our law, and the manner of its enforcement by our courts, I will, notwithstanding its length, give it in full, viz:

EXECUTIVE DEPARTMENT OF TEXAS, Austin, March 18, 1867.
BRIGADIER-GENERAL OAKES, Commanding U. S. Forces,
AUSTIN, TEXAS.

GENERAL:—I have examined carefully the communication of W. H. St. Clair, Inspector B. R. F. & A. L., addressed to Lieut. I. F. Kirkham, A. A. General, on the 26th ult., concerning the freed people who are convicts in the State Penitentiary, together with the accompanying papers which were placed in my hands a few days since by you. In answer to the suggestions contained in the communication referred to, and the request made through you by Major General Griffin, that a pardon be granted the convicts alluded to (numbering in all 227), I most respectfully submit, that my duty as the Chief Magistrate of this state, having in charge a due enforcement of the laws and the well-being of the people of every class and color, precludes the indiscriminate action on my part that is desired. It will be seen by reference to the report made by the Inspector, that these persons are confined for various offenses, many of them of the gravest character, including murder, rape, assault with intent to commit rape, arson, robbery, burglary, assaults with intent to murder, aiding prisoners in jail to escape, and theft. The great majority are for theft, and in many instances for stealing small amounts. But it should be kept in mind that the same law was applicable and operated alike upon white persons, and that a party is just as guilty of crime should the offense be for the stealing of one cent as for one million, though the punishment is greater or less in proportion to the amount stolen.

It will be observed that in almost every case the conviction has been for the shortest period of time allowed by law. For your information and that of the authorities who are charged with the well-being of the freed people, I will state, that under our laws, no person, white or black, can be prosecuted in our courts for a criminal offense without having counsel to conduct their defense. If they are too poor to employ counsel, or do not do so, it is the duty of the court to appoint counsel for them, unless such party should see proper to make their own defense. And I mention it as a fact honorable to the judiciary of this state, that it is the general custom in all such cases, to appoint the most able and experienced members of the bar. I venture the assertion with great confidence, that not a single convict was tried without having reliable and respectable counsel to defend the case, and in no instance where a reasonable showing was made that witnesses material to the defense were absent, have they been hurried or forced into trial without them.

To show how tender the courts have been of the rights of this class of persons, I will mention a fact which should be known in connection with the case of the freedman, Richard Perkins. In this case Perkins was indicted for murder, and able counsel was assigned him by the court. He desired to enter the plea of guilty, and so expressed himself in court; but the state having all the witnesses present that had been subpœnaed in the case, the court would not permit him to do so.

I have been *witness* repeatedly to the exertions made by counsel thus *assigned in defense of* such persons, and in some cases I know of acquittals *that unquestionably* would have been convictions had the parties on trial *been of the white race.*

To the ears of persons who have been taught to believe that the people of the South are exasperated with, and wish to oppress the negro, this may appear strange, yet it is true. The great mass of our people—and I am quite sure the same sentiment has due weight with the judiciary—feel a sympathy for the negro, and as jurors, make a due allowance for his situation, and the temptations by which he has been beset in consequence of sudden emancipation. I would not be understood as asserting that this is true of every person, or every section, but it is the general feeling entertained by a great majority of our people. Nor would I be understood as asserting that in every case where negroes have been convicted, that a due regard has been been had for their situation and ignorance, nor that strict and impartial justice has in every instance been meted out to them.

I deem it proper in this connection, as controverting the general charge made against our people of hostility to the negro, and of the same implied charge in Inspector St. Clair's statement, that in quite a number of cases memorials have been addressed to me, signed by the judges, officers of the law, members of the bar and citizens, asking pardons for freedmen who have been convicted of various offenses, including homicides and other offenses, down to misdemeanors. Quite a number of pardons have been granted by me, including some of the lists sent up from the penitentiary. In every instance but one, the white persons making the applications for pardon, have paid the fees of officers and costs of court, amounting usually from thirty to fifty dollars, and sometimes more in felony cases. Some petitions have been sent to me, signed by most respectable citizens, asking pardon for freedmen that I have not granted, because I did not think the cases presented came within the rule where executive clemency should be exercised.

I would most respectfully remind the authorities that the class of freedmen now confined in the penitentiary, as a general rule, is the most vicious and dishonest of the entire freed population of the state. And instead of astonishment being expressed at the number, I think it speaks well for the people themselves, and is a contradiction to the charge of white oppression that the number should be no greater than it is.

At the time of the surrender, the black population of Texas could not have been less than four hundred thousand. Since then a great reduction has occurred on account of the numbers who have returned to Louisiana, Arkansas, Missouri and other states. Taking a period of two years, under the circumstances when there was no government of any kind in the State for several months, with the country demoralized by war, and with such a large number of the slaves suddenly emancipated, it is remarkable indeed, that a greater number of crimes were not committed, and a much greater number of convictions had. In looking over the statements of the convicts, I have been impressed with the falsehoods uttered by the convicts, and evidently relied upon by the agents, which should be apparent to any one acquainted with affairs in this state. Some killed hogs, others stole bacon, etc., because as they said, they were hungry, and their employers did not furnish rations. The great effort to procure and retain labor, if fair dealing was out of the question, makes such statements as these very improbable; nor do I believe them true. Quite a number acknowledge to the taking of the articles charged, but render as an excuse that the parties from whom they took them were in their debt; others made mistakes, and not

w said they did not do the stealing, but the property was found in their
ession, etc. It will afford me much pleasure to co-operate with the
orities of the Bureau in ascertaining the facts of any individual case,
whenever any reasonable cause can be shown why executive clemency
ld be exercised, it will be freely and cheerfully extended. But these
s must come from the officers of the court where the parties were tried,
rom citizens of respectability who are acquainted with the previous
racters of the convicts. I would say further that it is not the value or
unt of the articles stolen that should influence interference in these
s. If the offender was of reasonably good character and habits previ-
to conviction, then it should have due weight; but if such character had
a bad and vicious it should not be regarded. It is certainly a novel
ceeding, and I cannot believe it is justifiable, that an application of this
racter should be based upon the statement of the convicts. The course
sued by the Inspector in raising in the minds of the convicts an expec-
on of release is, in my candid judgment reprehensible and cannot fail
rove mischievous; and were I to release them would prove of the great-
injury to them. It would be regarded as a license, and be an incentive
hem to commit other offenses. I trust in the future the Chief of the
eau will permit no further interference of this kind with the municipal
police regulations of this state.

must be allowed also to remark, that the statements and implied cen-
es of the Inspector, St. Clair, towards the courts, people and authorities
this state, are neither courteous nor respectful; nor are they warranted
facts.

cannot close this communication without stating to the officers of the
eau that I will, at all times and under all circumstances, afford them
the aid in my power to secure every right to the freed people of this
e that is guaranteed by the laws of the state and general government,
will be always ready to extend to these people the broadest mantle of
cy and charity, where it can be done with a due regard to their inter-
and a just respect for the interests of the whole body politic.

With sentiments of great respect, I am, General,

Most respectfully, your obedient servant,

J. W. THROCKMORTON, *Governor of Texas.*

No just man can find fault with Governor Throckmorton
refusing to pardon these convicts, and yet there is no
ubt but that his refusal to pardon them was one of the rea-
ns that induced General Sheridan to believe him to be "an
pediment to the reconstruction of Texas under the law."
may be that General Sheridan had another reason for
lieving Governor Throckmorton to be an impediment to
construction. The Governor, as was his duty, had applied to
eneral Sheridan to place troops upon the frontier to protect to
ir people from the depredations of Indians, and General
eridan, in reply to this application, said: "There wer
re casualties occurring from outrages perpetrated up

Union men and freedmen in the interior of this state than occurs from Indian depredations upon the frontier." Governor Throckmorton replied to this statement made by General Sheridan, and said: "General, this is truly a startling statement, and I exceedingly regret that you have been so unfavorably impressed with the general character of the people of Texas, and that your information should be so incorrect. I am frank to admit that many violations of law occur in the interior of Texas; but that these things are the result of rebellious sentiment among the people, or that the outrages committed in consequence of this rebellious feeling are far in excess of the Indian depredations upon the frontier, I must solemly and emphatically deny. You have heard one side of the story. Perhaps if the people or authorities of Texas had been as persistent and mendacious in their version of these affairs to you and your officers, as have been the howling crowd of canting, lying scamps, who were doing everything in their power to make trouble and produce alienation of feeling betwen countrymen, you might not think so badly of us. I most positively assert that, of all the outrages occurring in Texas since the surrender, but the fewest possible number have originated out of the feeling alluded to by you."

This was a flat contradiction of the statement that General Sheridan had made, and it possibly irritated him. But this was not all. Gov. Throckmorton, in replying to the charge made by Gen. Sheridan, that the people of Texas had perpetrated such numerous outrages upon Union men and Freedmen, saw fit to call the General's attention to the fact that much crime in Texas had been perpetrated by Federal soldiers in his command. For in another place in his letter, he said:

"Suffer me to say that, of the robberies committed upon freedmen in Texas, a great number of them have been by soldiers in your command, and others who have been discharged, or deserted from it. It is undoubtedly true that the negroes in the localities of the troops are more afraid of imposition from the soldiers than from any other quarter. Many of the outrages that have occurred in Texas have been perpetrated by deserters and discharged soldiers from the army of the United States. A band of seventeen or eighteen

one body went to general robbing, and are now in the state penitentiary. Another band of deserters from the 6th cavalry went directly North through the state from Waco, and committed every species of outrage. Other squads who were discharged, traveled through the state on their way North, sometimes representing a Quartermaster and Commissary and giving receipts, and in other places taking by force."

This probably was the "straw which broke the camel's back" and in the opinion of Gen. Sheridan, made Throckmorton an "impediment."

The reconstruction act of March 2nd, 1867, declared that no legal State Governments, or adequate protection for life or property existed in the states of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas, and divided said states into military districts, and subjected them to the military authority of the United States, and Louisiana and Texas were made the 5th military district. Said act in section 6 also provides; "That until the people of said Rebel States shall be, by law, admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States, at any time to abolish, modify, control or supersede the same."

Thus was the state government that had been organized by the people of Texas at the instance of, and by the authority of, the Federal Government, subordinated to the military authority of the United States, and he whom the people of Texas had elected Governor of their state became subject to the order of an officer of the United States army.

This was humiliating to Gov. Throckmorton, and it was as much so to the people of Texas. With the hope of being able to serve his people, and to some extent alleviate their situation, he sacrificed all personal feeling, and devoted himself to their interests. He at once placed himself in communication with Gen. P. H. Sheridan, who had been placed in command of the *5th military district,* and signified his willingness to co-*operate with him in the* reorganization of the state. He wrote *General Sheridan* as follows:

EXECUTIVE OFFICE, AUSTIN, March 30, 1867.

MAJOR-GENERAL SHERIDAN, Commanding Louisiana and Texas, New Orleans.

GENERAL:—Your telegram of yesterday in answer to mine of the 27th, informing me that Brevet Major General Charles Griffin has direction of the details of the reorganization of this state, is received. I think I am justified in the statement that the people of Texas will participate in the reorganization with great unanimity. While the people with very little division of sentiment regard the terms imposed as onerous and oppressive, yet they are determined to abide the laws and comply with them. As the chief magistrate I shall lend a prompt assistance when in my power, to carry into effect the laws referred to, and shall advise the people to participate in the reorganization with good feeling and to the extent of securing to the newly enfranchised class the freest exercise of the privilege conferred. I have such assurances from various parts of the state, and from most intelligent and respectable citizens, that I apprehend General Griffin will have but little difficulty in the discharge of his delicate labors. The people will register promptly, when called upon to avail themselves of all the privileges allowed. I feel confident in the hope that yourself and General Griffin will extend to the people every facility possible, in order that they may comply with the requirements of the law. I am, General,

Very respectfully,
Your obedient servant,
J. W. THROCKMORTON.

The foregoing letter was a manly acceptance of the situation, and notwithstanding the increased embarrassment of his position, caused by the action of Congress, Governor Throckmorton continued to discharge the duties of his office with the same energy and ability that had ever characterized his official conduct. Never for a moment did he cease to have the law rigidly, but impartially enforced in every county, and but for the intermeddling of the military, peace would have prevailed throughout the state. He was ever ready to assist the military authorities in the discharge of their legitimate duties, and no request for aid of any sort that would facilitate reorganization of the state was made of him that he did not most cheerfully give. But at no time did he fail to protest against their usurpation of power and do his best to protect his people from cruelty and oppression. It was his fearless efforts to protect his people that led to his *removal.* On the 30th day of July, 1867, General Sheridan, *who was in* command of the Fifth Military District, issued *the following* order:

NEW ORLEANS, July 30, 1867.

Special Order No. 105.

A careful consideration of the reports of Major-General Charles Griffin, U. S. Army, shows that J. W. Throckmorton, Governor of Texas, is an impediment to the reconstruction of that state under the law; he is therefore removed from that office. E. M. Pease is hereby appointed Governor of Texas, in place of J. W. Throckmorton removed. He will be obeyed and respected accordingly. By command of Major-General P. H. Sheridan.

(Signed.) GEORGE S. HARTRUFF,
Assistant Adjutant General.

(Official.)
GEORGE LEE,
1st Lieutenant, 21st U. S. Infantry,
Acting Assistant Adjutant General.

When served with the above order, Governor Throckmorton published an address to the people of Texas, in which he gave a review of his official conduct, and showed that as Governor he had not been an impediment to the reconstruction of the state, but had been an "impediment" to the despotic exercise of military power.

E. M. Pease who was made Provisional Governor of Texas by order of General Sheridan, was an old citizen, who had been Governor of the state before the war. The people of Texas had the right to expect from him, at least, fair treatment, but they were doomed to disappointment. Previous to the war he had been an ultra Democrat, but because of issues growing out of the war, he had become a Republican. Differing with a large majority of the people of Texas about political matters, he became embittered in his feelings, and seemed to be imbued with hatred to those from whom he had obtained his wealth and position. Not long after he became Provisional Governor, he built for himself a monument of infamy that time will not destroy. This man Pease, in a letter to General W. S. Hancock, then commanding the Fifth Military District, libelled his people, and asked General Hancock to establish military tribunals—drumhead court-martials—for the trial of citizens who might be charged with offenses, for the perpetration of which, if guilty, they were only amenable to the civil law.

The great soldier and hero spurned the proposition, and *indignantly refused* to become a party to such a crime. The *just rebuke administered* by General Hancock in his reply

the application made by Pease will not be soon forgotten by the American people. It is a production worthy of the pen of any of the Fathers of the Republic. But, unfortunately, the views expressed by General Hancock did not accord with those entertained by the Administration at Washington, and he was soon removed, and one who knew less of the Constitution and more of tyranny became his successor. Civil law was again subverted, and unlicensed military power was supreme. The people were helpless. Throckmorton, who had labored to protect them, was succeeded by one who had actually invited their oppression. Military commissions sat in various sections of the state, and citizens of the highest respectability were brought before them and given a mere mockery of trial, and sentenced to ignominious punishment. The judges were appointed and removed at the pleasure of the military authorities, and very many of them had no higher conception of duty than to obey the behests of their masters. Those who dared to manifest independence of thought and action were not permitted to obstruct or defeat the purposes of those who were in authority, but were removed and their places supplied with others of less capacity and honor. It was useless to ask such men to interpose their judicial authority for the protection of the citizen. They recognized no right except such as was graciously accorded by arbitrary power, and with them the writ of *habeas corpus* was not a writ of right, but an act of grace. In one instance a United States District Judge, when applied to for the writ of *habeas corpus* by a number of men who were on trial before a military commission, refused to make any order granting or refusing the writ, and gave as a reason for his refusal to act, that he could not afford to do anything that would require of him a decision involving the constitutionality of the reconstruction laws.

The cowardly fear manifested by this Judge well illustrates the condition of the country at that time, and the awe that was inspired by military government.

What is known as the Reconstruction Convention assembled at the capitol, in Austin, on the 1st day of June, 1868. No one had been permitted to vote for the election of dele

gates to this convention who had not been registered, and the registration had been so managed by the military authorities as to give the entire control of it to negroes and carpet-bag Republicans. The result of such conduct was to prevent thousands of Democrats from being registered and the election of a large majority of Republicans as delegates to the convention. After organization of the convention had been perfected, the Provisional Governor, E. M. Pease, sent to it a message, in which he told but one truth about the people of Texas, and that was, "I knew that my appointment was distasteful to a large majority of the people of Texas who had participated in the rebellion, and who have heretofore exercised the political power of the state."

He was prolific in his suggestions, and advised a dismemberment of the state by selling a portion of its territory to the United States; and among other evidences of his littleness, he said to the convention, "It is expected that you will temporarily disfranchise a number of those who participated in the rebellion, sufficient to place the state in the hands of those who are loyal to the United States Government;" the obvious meaning of which was the disfranchisement of enough Democrats to place in power for years to come the Republican party in Texas.

The Constitution framed by this convention was, as might have been expected, filled with provisions which gave warrant for the exercise of despotic power, and it was ratified by the same class of voters who had authorized its creation. Under it an election for Governor and other state officers was held, and Edmund J. Davis was counted in as Governor of Texas by the military authority of the United States. Davis was a native of Florida, but for many years had resided in Texas. During the war he had been a soldier in the Federal army and had attained the rank of Brigadier General. He was a Republican, and so was his only opponent, Governor A. J. Hamilton; but Hamilton was more conservative in his views, and, therefore, more acceptable to the people of Texas. The Democrats *presented* no candidate for Governor, for it was *evident that if a Democrat* was elected he would not be permitted to fill the position. Such Democrats as were allowe

to vote, and availed themselves of their privilege, supported Hamilton. There is no doubt but what Hamilton was elected. But it had been determined by those in power that he should not have the office. Many counties which gave large majorities to Hamilton were illegally thrown out, and other expedients were resorted to by those in authority to enable them to declare the election of Davis. So it was with the Legislature. It was officially declared that each house had a majority of Republicans, and thus, by skillful counting, any conflict between the executive and the legislative departments of the government was avoided.

The first Legislature after reconstruction that assembled in Texas, known as the 12th Legislature, has passed into history as the most venal and corrupt body that ever disgraced the state. Aside from purely political measures, it is said money was freely used to procure legislation, and that there was scarcely any attempt at concealment. The lobby was thronged with shrewd and unprincipled men from almost everywhere, who were seeking to rob the state of both land and money. Charters obtained to sell, were granted for almost every conceivable purpose. Governor Davis, though a bigot in politics, had the reputation of being an honest man, and he endeavored to check this character of legislation by the exercise of the veto power, but he could do no good, for the bills were passed by the requisite majority over his objections. Bribery and corruption were the least of the evils with which the people of Texas had to contend. The party then dominant in the state had been so long accustomed to rely upon the military power of the United States that it seemed to be incapable of administering civil government, and its leaders recognized the fact that the government which they had organized for the state was not a "Government of the people, by the people and for the people," and could only be a Government of force.

Governor Davis in his first message to the Legislature recommended "that a police system be adopted embracing the whole state under one head," and said that no system of laws *for the suppression* of crime, however severe will be complete "*without such* powers are conferred on the Executive as will enable . . . any emergency to act with the authority of

law." What a spectacle was here presented? A man who claimed to have been elected the Governor of one of the States of this Union demanding of the Legislature of that state that he be clothed with the authority of law for the exercise of despotic power. In this boasted land of liberty, it is hard to realize that such a demand could have been made, but it is more difficult to believe that the Legislature complied with it. The Governor also suggested to the Legislature "the question of making some provision for the temporary establishment of martial law." Evidently it was his design to subvert the liberties of the people and to have authority to maintain a government of force, and to this end he determined upon the organization of a military force, that should be composed of such material as he desired.

The Legislature promptly responded to the demands of the Governor, and passed several acts that enabled him to carry out his wicked purpose. The first one we shall notice is an act entitled "An Act to Provide for the Enrollment of the Militia, the Organization and Discipline of the State Guard and for the Public Defense." By this act all able-bodied male citizens residing in the state, between the ages of 18 and 45 were made subject to military duty, except certain classes therein mentioned, and the Governor was made Commander-in-Chief of all the military forces of the state. The militia were, by the act, divided into two classes—one was called "The State Guard of Texas" and the other the "Reserve Militia." It was declared that the State Guard of Texas "shall consist of male persons between the ages of 18 and 45 who shall voluntarily enroll and uniform themselves for service therein, *provided the Commander-in-Chief (the Governor) shall designate the number of men in each county in this state allowed to enroll in the State Guard, and have the power to reject any person offering himself for enrollment in the same.*" The reserve militia was composed of all persons subject to military duty who had not enrolled in the State Guard. Thus was the Governor enabled to organize troops without limit as to number, to be composed of a class *of men that he* wanted to execute his designs. A learned *lawyer and distinguished* citizen of Texas, not very long after *the passage of this law,* in commenting upon it said: "

desire to call attention to the very important fact, that this act permits able-bodied male citizens, residents in the state, to enroll in the reserve militia, but all persons without qualifications between the ages of 18 and 45 can enroll in the State Guards provided they suit the purposes of the Governor." Why this distinction? The common sense of every man will suggest to his mind the answer. This State Guard is peculiarly the Governor's army, selected and organized out of such material as will serve his purposes. The Reserve Militia can only be composed of resident citizens of Texas, and perhaps would refuse to murder, rob and pilfer their fellow-citizens, should they be called upon to do so by the Commander-in-Chief. They are what this act designates them, "Reserve." They cannot act unless called out by the Commander-in-Chief. They remain unorganized, unarmed and unequipped, but we find the State Guard fully organized and equipped, scattered through every or nearly every county in the state, eating up the substance of the people, and in very many instances murdering innocent and unoffending citizens; depriving them of their property by force or fraud; disturbing the peace and quiet of whole communities and inflaming the animosity of the races; and in a word fully carrying out the purposes and interests of their organization. To use the Governor's own language, the Legislature in the passage of this act has conferred "upon the Executive such powers as will enable him in any emergency to act with authority of law."

In response to the suggestion made by the Governor in regard to martial law, the 26th section of the act we are considering, provided "it shall be the duty of the Governor, and he is hereby authorized whenever *in his opinion* the enforcement of the law of this state is obstructed, within any county or counties by combination of lawless men too strong for the control of the civil authorities, to declare such county or counties under martial law, and to suspend the laws therein until the Legislature shall convene and take such action as it may *deem necessary*."

Not content with the military force already provided, and *the extraordinary* powers conferred on the Governor, the Legislature on the 1st day of July, 1870, passed an act entitl

"An Act to Establish a State Police and Provide for the Regulation and Government of the Same."

By the terms of this act, the force was composed of one Chief of Police, four Captains, eight Lieutenants, twenty Sergeants and two hundred and twenty-five Privates. In addition to the above force, the act provided that "All sheriffs and their deputies, constables, marshals of cities and towns, and their deputies, and police of cities and towns shall be considered as a part of the State Police, and be *subject to the supervisory control of the Governor* and Chief of State Police, *and under directions of the Governor*, or Chief of State Police, may at any time be called upon to act in concert with the State Police in preserving or suppressing crime, or in bringing to justice, offenders. The Chief of State Police, *subject to the Governor*, may make all needful regulations and rules for the government and direction of these officers in matters looking to the maintenance of public peace, preventing or suppressing crime and bringing to justice offenders, and any of *these officers failing or refusing prompt obedience to such rules or regulations, or to the orders of the Governor, or Chief of State Police, shall be removed from office, and suffer such other punishment as may be prescribed by law.*"

This was an extraordinary power to confer upon the Governor. It gave him control of all the civil executive offices of the state, and subjected them to removal from office, if they failed or refused prompt obedience to the rules and regulations of the State Police, or to the orders of the Governor or Chief of State Police. The Governor had asked the Legislature "to confer on him such powers as would enable him in any emergency to act with authority of law." In this act his request was literally complied with, and his pleasure or will, made the paramount law of the state. The law creating the State Police was amended so as to enable the Governor to appoint an additional force of twenty men in each county, the expense of which was to be borne by the people of the respective counties.

This additional force, like the others, was made subject to *he order of the* Governor and could be used by him *s is pleasure. Was* ever king, prince or potentate cloth *th greater power!*

The Davis administration was the result of the methods adopted by the authorities of the United States, who were in control of the state during reconstruction. It was the legitimate child of arbitrary power, and the continuation of despotic government in its very worst form. This was soon made manifest to the people of Texas. Terrible as had been the oppression of the people by the military authorities of the Federal Government, it was now even worse. Men, if possible, more infamous and of less responsibility, were in a position to injure and harass the people. Not unfrequently they availed themselves of their official position to wreak vengeance upon those who had incurred their personal animosity.

The state police was a terror to every community, and in the name and by the authority of the state, they perpetrated crimes of every description. They searched any place, or seized any person or thing, and without probable cause supported by oath or affirmation. The Governor held that the uniform which was worn by the State Guard and state police, together with their silver badge of office, supplied the place of affidavits and warrants, and authorized persons wearing the same to search any place, or to seize any person or thing.

In the month of December, 1870, one Lieutenant Pritchett, at the head of three white and four negro police, went to the house of Colonel James J. Gathings, in Hill County, and by force entered the same and searched it, against the protest of the proprietor. This was done without any authority of law, and no charge of any kind had been preferred against Colonel Gathings or any of his family. After they had left the house, Gathings went to the nearest magistrate and made affidavit to the facts, upon which the magistrate issued his warrant for the arrest of the parties offending. Lieutenant Pritchett and his party were arrested and gave bond for their appearance at a certain day before the magistrate, and forfeited the same; and instead of appearing before the magistrate, Pritchett went to Austin, the capital of the state, and reported to the Governor. Instead of sending Pritchett back to stand his trial, the Governor placed about one hundred State Guards under General Davidson, the chief of [illegible] im to proceed with all speed to H[illegible]

ıty. Upon the arrival of Davidson and his force in County, he arrested Colonel Gathings, and placed him in ourt-house, from which all citizens were excluded, and a y guard stationed around it. General Davidson informed nel Gathings that no military commission would be con- d to try him if he would pay the expenses of the force, h he estimated at $500.00 per day. Upon Colonel ings' refusal to comply with this demand, Davidson med him that he would declare the county under mar- law, tax the county to support the troops, organize a t-martial and try him, and if convicted, send him imme- ly to the penitentiary without the right of appeal. After Davidson proposed to Gathings to settle the matter for 0. Colonel Gathings, with the assistance of some ds, paid the money.

he seventh section of Article I. of the Constitution, then rce, reads as follows, viz. :—

The people shall be secure in their persons, houses, papers possessions from all unreasonable seizures or searches, no warrant to search any place, or to seize any person or g, shall issue without describing such place, person or g, as near as they may be, nor without probable cause, orted by oath or affirmation."

avis had taken his solemn oath to support this and every r provision of the Constitution, but under the authority ted him by the Legislature, he deliberately violated it, only in the case of Colonel Gathings, but in hundreds of r instances.

narration of the crimes and outrages committed by ernor Davis and his minions would fill a volume. There an election for members of Congress in Texas, in the th of October, 1871, and in August prior to this election, ernor Davis issued a proclamation to the people of Texas, ch, as a manifestation of despotic authority and for brazen udence, is without a parallel in the history of this, and aps of any other state in the Union. The proclamation s as follows:—

All persons coming to vote shall deposit their votes wi last possible delay. and after this is done they are

bidden, under any pretext, to remain about the polls, *or at the county seat, unless this is their residence, during the time of election, but shall return to their houses and usual employment*, and peace officers, State Guards or militia on duty at the polls shall see that this regulation is complied with."

The Constitution expressly prohibited the arrest of electors during their attendance at elections, and in going to and returning from the same, except in case of treason, felony, or breach of the peace.

But what cared Davis and his followers for the Constitution? Undoubtedly it was his purpose to place at the polls such an array of peace officers, State Guards and state police as would deter many Democrats from voting, but in this he did not succeed. In the Third Congressional District, W. T. Clark was the Republican candidate for Congress, and D. C. Giddings was his Democratic opponent. Governor Davis canvassed the district in behalf of Clark, and his speeches were filled with vituperation and abuse of those who differed from him in politics, and were well calculated to create trouble. Every kind of device was resorted to, to inveigle Democrats into the commission of some act by which they would be placed in a false and disloyal attitude.

The writer remembers to have seen a number of United States flags suspended across a street, and hung so low that a man of ordinary height could not walk under them without coming in contact with them, and it was well understood that they were thus suspended with the hope that some indiscreet person would tear one or more of them down, so that it might be flashed over the wires that in Texas the flag of the Union had been desecrated and trampled under foot. But the plan did not succeed, and the flags remained unmolested.

At one time Davis placed Walker County under martial law, and to defray the expenses of the military force that he quartered upon that county, he compelled the people thereof to pay not less than eight thousand dollars. Afterwards he placed Limestone and Freestone Counties under *martial law*, for no other purpose than to keep the vote of *those counties* from being counted for Giddings, the Democratic candidate for Congress. The people of Limesto

County were compelled to pay a sum of thirty-six thousand dollars—the amount of a tax that was levied upon them by a military order issued by one General A. G. Maaloy, who styled himself "Commander of the State Forces in Limestone County."

The Legislature conferred upon the Governor the power to appoint a mayor, and other officers for each incorporated city or town in the state. Under this authority Davis placed "carpet-baggers," and others of his political faith, in control of the municipal governments, in a number of cities in the state, and many of these appointees reaped fortunes from their crookedness in office.

Their usual plan was to place a bonded debt upon the city or town, for which but little, if any consideration was received by the inhabitants thereof; but the Mayor and Aldermen became rich, and the people were burdened with increased taxation.

In one city of not more than ten or twelve thousand inhabitants, they created a debt of one and one half millions of dollars, and the improvements for which this debt was incurred could have been obtained for much less than one-third of the amount stated. The bonds generally carried a high rate of interest, and all deficiencies in the payment of matured interest were met by the issuance and sale of new bonds, and thus from time to time were the burdens of the people increased.

Under the administration of Gov. Throckmorton, the rate of state taxation was fifteen cents on the hundred dollars, and the taxes levied by the counties were correspondingly low, but were found to be amply sufficient for governmental purposes. The state was then practically out of debt, and had a balance in the treasury.

Whatever wrongs had been perpetrated by the military authorities of the United States during the reconstruction period, they had not robbed the treasury, or imposed onerous taxation upon the people. This was reserved for the Davis administration. From 1870 to 1874, the period covered by *the administration* of Governor Davis, the state ad valorem *tax alone was fifty* cents on the one hundred dollars, and *this was augmented* by special state and county taxes, to

amount unparalleled in the previous or subsequent history of Texas.

Governor Davis in his message to the Legislature, speaking of the state debt, said there was due the school fund, $82,168.82, and due the university fund, $134,472.26, and the only other indebtedness was that of the ten per cent. warrants. This amount, he stated, was not considerable, and further said:

"Texas may therefore, substantially be said to be out of debt." This was a frank, but true admission made by the Governor of the financial condition of the state when he and his party came into power.

On December 1st, 1873, the Comptroller in the Davis administration, Mr. A. Bledsoe, in his report to the Governor, gives the state debt at that date at $1,797,884.16. And when his administration closed he left, as a legacy to the people of Texas, a debt that amounted to $4,414,095.45.

During the administration of Governor Davis, warrants upon the state treasury were hawked on the markets at forty-five cents on the dollar, and the bonds of the state were practically valueless in the home and foreign markets. The Davis administration made large promises in regard to the education of the youth of the state, and fulfilled them by the creation of a cumbersome system of public schools, in which a vast retinue of officers absorbed the money appropriated for school purposes so rapidly as to prevent the schools from being taught a sufficient length of time to do any good. The children of the state, and especially the colored children, were growing up in ignorance, values were not appreciating, population was but slowly increasing, the state was rapidly becoming bankrupt, and the ruthless exercise of arbitrary power had rendered life, liberty and property insecure.

Such were the results of an administration of public affairs that had been forced upon the people of Texas by those who had been placed in charge of reconstruction. But the day of *deliverance* was at hand. At the next general election the *people swept* Davis and his party from power, and elected *for state officers* the entire Democratic ticket. In both houses *of the Legislature* a large majority of Democrats was elected

Richard Coke was elected Governor, and notwithstanding the immense majority of votes he had received, Davis would have resisted his induction into office if he could have been sustained in such action by the General Government. He vainly appealed to General Grant, who was then President of the United States, to assist him in his proposed usurpation of power, but General Grant refused to give him aid, and Coke was inaugurated and duly installed as Governor of the state

The Democratic party has had continuous control of public affairs in Texas since the defeat of Davis, and now, after fifteen years of Democratic government, we can speak with certainty of its results.

The Democratic Legislature, elected with Governor Coke, immediately repealed the odious laws passed during the Davis administration, and the people felt that they were once more free. State Guards and state police, martial law and military despotism, have become things of the past, and it is sincerely hoped will never be visited upon the people of Texas again. The credit of the state has been restored. Within a few months after the inauguration of Governor Coke, the securities of the state commanded from ninety to ninety-five cents on Wall Street, and afterwards sold for one dollar and forty cents, and at this time rate as high as do the securities of any state in the Union.

The bonded debt of the state is now $4,237,730, which is all owned by special funds of the state except $1,220,630. Taxation has been largely reduced. The state *ad valorem* revenue tax is ten cents on the one hundred dollars, and the tax for the support of the public schools is twelve and one-half cents on the one hundred dollars, and the average rate of county tax is forty-seven cents on the one hundred dollars. These taxes are found to be amply sufficient to meet the expenses of state and county government.

Good government has not been without its influence in attracting immigration. The census reports show that the population of Texas in 1870 was 818,579; that it had *increased in 1880 to* 1,591,749, and there is little doubt but *that Texas will have* in 1890 a population of not less than *three millions.*

Not only immigration, but with it capital, was attracted to our state and sought investment; and enterprise and industry have met with their just reward. Great progress has been made in the building of railroads. In 1870 there was in operation in Texas only 711 miles of railway. In 1888, there had been constructed and was in operation, 8190 miles, and now there cannot be much less than 9000 miles of railroad in operation in this state.

Public education has not been neglected, but it has been fostered and largely developed. Normal schools for the training of teachers, both white and colored, have been established. A state university richly endowed has been founded, and is now in successful operation; and the agricultural and mechanical college of the state, has been in a prosperous condition for a number of years.

When Texas was annexed to, and became a part of, the United States, she reserved her public domain; and long before the war between the states, a large portion of it was set apart for the maintenance of free schools.

A part of these lands have been sold, and the proceeds applied to the public school fund; but there yet remains about twenty-eight millions of acres belonging to the public schools. The permanent school fund now holds bonds amounting to $6,334,957, and interest bearing notes given in payment for school lands, and secured by liens upon said lands aggregating $10,380,000, the annual interest on which, together with the money derived from land leases, amounted last year to the sum of $1,010,415.58. And this amount will annually increase for years to come.

In addition to the lands belonging to the state, each county in the state owns 17,712 acres of land, the proceeds of which are to be applied exclusively to the support of common schools.

For the further aid of free schools, a tax of twelve and one-half cents on the one hundred dollars worth of property, *and a poll tax* of one dollar on every male inhabitant of the *state between* the ages of twenty-one and sixty years, is set *apart for their* support, and each community has the *option of supplementing* the state funds by local taxation

Texas annually expends about $2,778,000 for the support of public free schools. Notwithstanding the negroes own but little property and pay scarcely any taxes—not even a poll tax—and the burden of sustaining the free schools is borne by the white population almost exclusively, yet in the disbursement of the school funds no discrimination is made against colored children, but they and the white children fare alike.

Complete reports were not made to the Superintendent of public instruction of the state from all the counties last year, but from what were made, we learn that during the year, 364,744 children, between the ages of eight and sixteen attended the free schools, of which number, 280,281 were white, and 84,463 were colored children. Considering the respective number of whites and blacks in the state, this is a good showing for the colored people.

During the administration of E. J. Davis, the taxes levied for the support of free schools for one year were many times greater than the annual tax levied by the state under Democratic rule, and more school-houses are now built each year, than were built during the entire period of the Davis administration, while the schools are incomparably better.

The white people of Texas believe that the best remedy for all the evils which may flow from "universal suffrage," is "universal education," and in the interests of good government, they have thought proper to give the colored people the advantages of a common, school education, with the hope that it may help to qualify them for the discharge of the duties incumbent upon American citizens.

In Texas the relations between the white and colored people have always been amicable and peaceable. In a few localities in the state, disturbances have occurred, but there has been no serious conflict between the white and colored races, nor is any such conflict apprehended. With the exception of the Washington County case before the Senate of the United States at its last session, (and which was not sustained by evidence) it has never been charged that in Texas colored men have been prevented from voting as they pleased; nor has it been alleged that their votes were not properly counted. Texas has entered upon an era of unexampled prosperity

Her delightful climate, which permits outdoor work in every month of the year, and her cheap and productive lands, together with light taxation and exceptional educational institutions, have attracted white immigrants from every state in the Union, as well as from Europe, and this immigration is increasing so rapidly, that with us the negro will soon fail to excite solicitude upon the part of any political party. What we want in Texas is to be let alone by the Federal Government and to be allowed to manage our local affairs.

Our people earnestly hope that no policy will be adopted by the present or any future Administration of the Federal Government that does not embrace within its scope the whole country.

We have had enough of a "Southern policy" during the "reconstruction period," the evils of which, at least to some extent, I have endeavored to describe in this paper. We trust that the people of no section of the United States will ever again be willing to see a Government of any of the States in this Union, established by the people thereof, supplanted by a military despotism.

CHAS. STEWART.

CHAPTER XIV.

RECONSTRUCTION IN LOUISIANA.

I. INTRODUCTORY.

THE loss of Lincoln was a calamity to the South second only to the war. But for that sad event, the States, with their autonomy, would, in fact and law, have continued self-government in union, on the line that he had marked, and the horrors of reconstruction would have been avoided.

Providentially, the leadership of the dominant political party was then in the hands of Lincoln, Seward, Chase, and such like, the former holding the executive power and the supreme command and direction of all federal forces, with the entire military and executive duty and responsibility imposed upon him, by the Constitution and the laws passed in pursuance of it, of closing the war, establishing peace, and securing the fruits of victory; the most important of these being to restore the Union, which in constitution and in nature, could but be, at any given time, as Article I. phrases it, "the several states which may be included within this union." There was actually no opening for any reconstruction that was not unlawful and revolutionary; and, indeed, there was nothing to reconstruct; the states were complete, and the union" "included" them all. This absolute truth, the government declared and proclaimed as a fact accomplished —a truth—under the seal of the United States, on April 2d, 1866.

What "Course" did Congress Mark?

The answer is gravely important. In July, 1861, Congress *resolved, (every* Republican, in the House but two, and *in the Senate but* one, voting *yes*), that this war is not

waged in "a spirit of oppression, or for conquest or subjugation, . . . but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several states unimpaired; and that, as soon as these objects are attained the war ought to cease."

What was then the Actual Situation,

according to the Constitution and laws? Congress had always treated secession as a nullity and as rebellion, and had pledged its faith that the war was purposed only to save the Union, and was not for oppression, conquest or subjugation.

Lincoln had, throughout the war, held secession to be null, and the states to be in the Union, but acting rebelliously.

Johnson, as history shows, "took the position that a state could not secede, and that, therefore, none of the Southern States had ever been really out of the Union."

And, finally, the Supreme Federal Court settled the matter forever, in never-varying wisdom and justice, in the cases of Texas *v.* White (7 Wall., 700), White *v.* Hart (13 Wall., 651), United States *v.* Ins. Co. (22 Wall., 99), Keith *v.* Clark (97 U. S., 454), and many others, holding *the nullity of secession*, the continuance of the Union during the war, the indestructibility of the states, and the validity of all their acts during the war which were not hostile to the Union or conflicting with the Constitution. And in 22 Wallace, 99, they cite the above cases and others, and say: "After these emphatic utterances, controversy on this subject should cease."

When the laying down of arms was completed, the dawn which had cheered the close of Lincoln's life had become the full day of peace; the Confederates had surrendered and been paroled. They were to go home, obey the laws there, pursue the arts of peace, keep their parole, and wage war no more. Habituated to institutional liberty, and relying on the good faith and magnanimity of the victors, the subdued states and their citizens went to work earnestly and honorably, in gradually restoring order, law and justice; and they ever afterwards adhered to the terms and obeyed them, without any attempt at evasion or murmur of discontent; and neith

their good faith, nor their obedience to the "supreme law," was ever impugned.

Look Now at the Terms and Conditions.

1. Lay down your arms and submit to the Constitution.
2. Resume your action in the Union, observe its requirements, and abandon secession as a remedy under it.
3. Abolish slavery.
4. Agree to the sacredness of the Federal war debt, and the nullity of the Confederate one.

History shows that these terms were fully complied with; and that the unity called "the Government," representing the United States, so declared on the second of April, 1866. "The United States," an association of equals, had resumed business, and Congress was, at best, its agent, with "*defined* duties" and "*designated* objects of attention," (to use the very words of Washington, on this subject, in his first inaugural), to which "duties" and "objects" every Congressman had sworn to confine himself.

The Government of the United States is a unit; Congress acts and binds it; so does the executive, and so does the judiciary—each in its sphere. The executive holds the seal of the United States; and by affixing it, and promulgating the act, it binds the whole Government, and makes any attempt of Congress to undo or frustrate the same, unconstitutional, if not revolutionary.

II. STEPS FROM WAR TO PEACE.

After the Confederate arms were laid down, the triune personality called "the Government of the United States," took many steps in the establishment of peaceful conditions, beginning early in 1865, and ending in what may be called *de jure* peace—that of April 2, 1866—all being done with the universal wish of the people. *De facto* peace had been enjoyed for nearly a year, with its increasing order, industry, prosperity *and content; and it* had convinced every mind, and made *every heart feel, not* only that "the Southern people could be *trusted," but that* they were as fit as ever for liberty and self

rule; and, moreover, that it was the solemn and pressing duty of the Federal authorities to permit the people themselves, at once to enjoy and protect their own "blessings of liberty"—these being the very *raison d'etre* of the Federal Constitution. Lincoln evidently had no intent of taking hold of states, after military necessity had passed. His wise, patriotic, simple, common-sense policy was to restore *relations and functions.*

Passing by Lincoln's civil establishments made under, and in aid of, his military authority, and within his military lines, he may be said to have made his first step on his restoration plan in February, 1864—the plan itself having been stated fully in his proclamation of December 8, 1863. His suggestion and promise therein to the subdued part of Louisiana, was, in general terms, that if 10 per cent. of the state would elect and hold a state convention and form a constitution, he would recognize them as the state, and consider the other citizens as still enemies. This was, of course, a legitimate war measure, effective only, *flagrante bello*, being only provisional, and to last till Louisiana, (the old political personality, indestructible except under Thor's hammer), should "come to her own." Under executive and military instructions from the commander-in-chief, Gen. Shepley ordered an election for Governor, etc., and members of a convention. A book in the Secretary of State's office gives "a record of the acts of the Governor Michael Hahn;" and "returns of election made by Gen. Shepley, Military Governor of Louisiana, February 22nd, 1864: Hahn, 6,158; Fellows, 2,720; Flanders, 1,847; total vote, 10,725." The convention sat in the spring of 1864; contained no representative Louisianian, *i. e.* no one whom the people generally would trust. The popular vote is entered in that book thus: "September 19th, 1864, for the Constitution, 6,836; against, 1,566." This record is probably correct, and the statement of a vote of 12,000, false.

The Legislature, under the said Constitution, adopted the *13th amendment*, abolishing slavery, and the Government, on *December 18*, 1865, proclaimed its adoption, naming Louisiana, Alabama, Georgia, North and South Carolina and Arkansas among the ratifiers.

Now let us note the striking and special interest taken by Mr. Lincoln in the restoration of Louisiana. To a committee, June 19, 1863, he wrote: "The people of Louisiana shall not lack an opportunity for a fair election of both Federal and State officers, by want of anything within my power to give them."

Idem sonans with this, were the steps above mentioned; and Gov. Hahn's message—probably inspired by Lincoln—to the 10 per cent. Legislature, contained the following:

The Constitution "provides wisely that our terms shall expire at an early day, in case of the restoration of peace in the whole state; and it is made my duty, as soon as an election can be 'held in every parish in the state,' to declare the fact, and order a new election. I need hardly tell you that I shall have real pleasure when this event shall be at hand;" and he winds up by hoping that "the whole people will soon exercise the right to elect state officers."

The basal idea of these men was the same as we shall see that Johnson held, viz: that "*the people of the South must be trusted.*"

Two facts should come in here to showLincoln's full confidence in Hahn, while they further indicated his nature, and his wise and kind policy towards Louisiana. In the message just quoted, Hahn says: "The President invested me, without solicitation or suggestion on my part, with the power exercised hitherto by the military Governor of Louisiana."

In a letter to him dated March 13, 1864, Lincoln writes: "Now you are about to have a convention, which, among other things, will define the elective franchise, I barely suggest for your private consideration, whether some of the colored people may not be let in—as, for instance, the very intelligent. . . . But this is only a suggestion, not to the public, but to you alone."

The writer will merely say here, that both of these men recognized the people's natural and Constitutional *right* of self-rule; their fitness for it; and the duty in the premises of "*trusting the Southern people*," with all their future political problems.

The terms of Surrender and Parole

accorded to Louisianians at Lee and Johnston's surrenders, were the same as those granted at Kirby Smith's, which will here be quoted: "Shreveport, May 26, 1865. The officers and men paroled under this agreement, will be allowed to return to their homes, with the *assurance* that they will not be *disturbed by the authorities of the United States*, as long as they *continue to observe* the conditions of *their parole*, and *the laws in force where they reside.*"

The *jus gentium* and the laws of civilized war were thus added to the "supreme law of the land," and to the goodness of the executive heart and intent, as assurances of protection to the sorely stricken commonwealth. And one of Grant's greatest glories was, his true chivalric faith and magnanimity, in earnestly insisting on the sacredness of the terms of surrender and parole.

The promised General Election.

According to the intent and promises above mentioned, a general election was called in the fall of 1865, the Legislature of which met November 23d, and fully and fitly represented Louisiana.

The first notable act of the real state, her sober second thought and her *pledge of sacred faith*, was the following sincere and solemn act of December 6, 1865:

JOINT RESOLUTIONS RELATIVE TO FEDERAL RELATIONS.

Whereas, It is eminently proper, both to our constituents and the Government, that the Representative body, fresh from the people of the whole state, the first that has assembled in Louisiana since the surrender, should give a public and unmistakable expression of sentiment in regard to the situation, therefore,

1. Be it resolved by the Senate and House of Representatives of the state of Louisiana in General Assembly convened, That there is *no spirit of resistance* to Federal authority among the people of Louisiana; that *they frankly* avowed their purpose and object in the late struggle for *separate government*, and having failed in that, they now, with equal frankness, *accept*, as the inevitable result, the present situation, including the *abolition of slavery*, the re-establisment of which they do not expect.

2. *Be it further* resolved, etc. That, in the expression that "the Southern people must be trusted," President Johnson exhibited a thorough acquain

ance with Southern character, and eminent wisdom and statesmanship; and that it is our firm resolve to *justify* this confidence, and to sustain the President in his efforts to restore these states to *representation* in Congress, and a position of political *equality* in the Union.

3. Be it further resolved, etc., That the people of Louisiana are *unreserved* in their purpose of *loyalty;* and, if permitted, that, to *the Constitution* of the United States and the Union of the states thereunder, do they now *look for their future political happiness and prosperity.*

DUNCAN S. CAGE, *Speaker of the House of Representatives.*
ALBERT VOORHIES, *Lieutenant Governor and President of Senate.*

Approved Dec. 6, 1865.
J. MADISON WELLS, *Governor of the state of Louisiana.*

Louisiana thus fully expressed her will and wish. She surrendered "under this agreement" (*supra*) in good faith. She wanted peace, order, law and self-rule. She stipulated for them; received the pledge of them; went home to enjoy them; and took *never* a backward step! Her sincerity has never been impugned!

III. THE RIOT OF JULY, 1866.

The Southern people being "remitted to the laws as they then existed"—to use the phrase of General Sherman, as to the Sherman-Johnston agreement—had gone to work in their respective communities, in business, civil and political affairs. Their panoply was, not only the constitution as a law, and the royal faith of its parties, but the moral force of the *jus gentium* and the laws of war. According to "THE AGREEMENT" of surrender and parole, they were "*to return to their homes, with the* ASSURANCE *that they would* NOT BE DISTURBED BY THE AUTHORITIES OF THE UNITED STATES *as long as they continued to observe the conditions of* THEIR PAROLE, AND THE LAWS IN FORCE *where they reside.*"

The Laws in Force.

Was not the federal constitution then "in force?" also the laws under it? also the state constitutions, and the laws thereunder? also the municipal corporations, and their ordinances? were not these laws all "in force?" If not, when, how, and for what part, were they repealed? Inter arma silent leges

but when "surrender" and "parole" were agreed on, and peace was declared, they were *silent* no longer. The only laws that could be thought to repeal or conflict with any of them, were the war-laws heretofore mentioned, which were provisional and temporary, and were so considered by Lincoln, and later, even by Sheridan; and were finally held to be so by the Courts. The truth is "the laws in force," lying at the basis of every thing—the vital and all-comprehensive laws—were the law of each state's being, and the law of self-government.

The soldiers of Louisiana were as faithful to their parole, as they had been brave in the armies of Lee, Johnston and Kirby Smith. In good faith they went home to the self-rule, self-help and self-cure, to which they were habituated. Lincoln's plain, practical and homely utterances had impressed them with his conservative wisdom and benevolent heart; and they were pursuing the course which he had marked out. Governor Hahn, acting probably under Lincoln's advice, promised an election, in which the whole people of the state should participate. This was held, and the new Legislature met on November 23, 1865. Peace reigned from shore to shore; and "THE LAWS IN FORCE," referred to in the parole, superseded absolutely the war-laws and orders, especially as these were at best intended as provisional and temporary. *Cessante ratione cessat lex.* The common-sense view seems to be this, that in returning to self-government, the people were like farmers, mechanics, merchants and manufacturers, who had been absent for a while from their farms and shops, which they were returning to repossess and work. They went out to fight; got whipped, and went back to business. Peace, industry and *restoration* were their chief, if not only ideas. The conquering party simply required them to go to their homes and institutions, and do as they had always done, *in exercising* their rights. They found at home the unchanged body-politic; their constitution still stood, as did their state *and municipal* laws; and of course in returning to their normal condition, they began their political as well as their private business. Their Legislature, elected in the fall of 1865, was chosen on Lincoln's plan, under full Federal con-

nizance, was composed of their best men, and was the legitimate offspring of Louisiana's will.

Hence, it was under the express command and sanction of the United States, that they went back to heir business of self-government, the machinery of which they had themselves made and worked, and which was still in existence and operation, though perhaps not in full repair and efficiency. But they owned it; and their state organic law, their statutes and municipal institutions, all under the federal compact, were the actual "*laws in force where they resided.*" They, therefore, could but rely with full faith on the "assurance" of the government, so solemnly given as heretofore cited.

While in this condition, a gang of political gypsies, disreputable native whites, and negro leaders, were secretly making a new Constitution for the state, pretending to act as the adjourned convention of 1864—a war convention, which had been held on Mr. Lincoln's ten per cent. plan, heretofore stated—had finished its work and submitted its plan of a Constitution, which the people had adopted: and it had adjourned *sine die.*

The people became anxious and unhappy; their anxiety was intensified by the fear that Congress favored the scheme of radical *reconstruction, i. e.,* revolution, instead of Lincoln's benign *restoration.* About that time, it leaked out that some unlawful or revolutionary scheme, like the forming of a new Constitution, was on foot. When it transpired, the great Louisiana jurist, Christian Roselius, who had stood for the Union and against seceding, in the Convention of 1861, and through the war, said, that "*every participant in the treasonable scheme should be arrested and sent to jail.*" The authorities then attempted to suppress the assembly as illegal. The collision of July 30th, 1866, was the result. So secret was the conspiracy, that it had actually matured a Constitution, which was signed by the members, printed and promulgated, and copies were offered for sale by Bloomfield, Steel & Co., before the public or authorities knew of it as a thing *in esse—so far as the* writer can learn.

Was not that riot, with the bloodshed of that sad affair, the *direct result of* the bad faith of the Government, or, to

more specific—of the Congress? As to whether the whites or the blacks were responsible for the opening attacks, the Republican private secretary of the Republican Governor testified that, "at the outset, the negroes were, in every instance, the instigators of the riot;" and that he "was an eye-witness of the whole affair." Be that as it may, the flagrant perfidy and tyranny that were then threatened, of remitting the people to their homes, home-law and home-rule, *i. e.*, self-government, and then, despite the "parole" and "assurance" stated, subjecting them, while in profound peace and perfect obedience, to military domination, martial law, and trials at the drum-head—for such was the menace—must have stirred society in all its depths, set in motion the impulsive, reckless and desperate elements, while relegating the conservative and proprietary forces, which, in quiet times, always rule, to timid inaction, and even hiding away. Congress, in its tyranny and extravagance, should heed the lesson. All history shows that when society is thus agitated and oppressed, the wealthy and well-to-do classes—if not beneficiaries—are most impatient and least forbearing. It is they who are most prone to send up, as of old, the earnest cry: "Give us a king!" and it is they who can best aid him in getting and keeping his crown!

The reconstruction laws ended, for many millions of Americans, their two years of profound peace, wonderful recuperation, high hopes and cheering prospects. The Government had fully punished them by war, had received their surrender, and given them paroles and solemn assurances of peace and freedom from Federal disturbance; but it proceeded, notwithstanding, to pour out a second "vial of wrath!" "Hell followed" for ten years!

IV. MILITARY GOVERNMENT IN PEACE.

By the Act of Congress passed March 2nd, 1867, and supplemented March 23rd, the Southern States were placed under military government, Louisiana and Texas constituting the Fifth Military District. Military interference henceforth was frequent and aggravating. The laws passed by

the City Council of New Orleans, requiring the police to be residents of the city for five years, were vetoed and wiped out by the military commander, because they prevented, he said, the appointment of ex-Union soldiers on the force. An election for city officers having been fixed for March 11th, 1867, it was postponed by General Sheridan, who assumed command of the district, without warrant of law, because, as he stated, no officer had been appointed under the law, and he thought it necessary for him to act as to the holding of this election, until "special instructions covering the case are received."

The writer deems it proper here to say, that the violations of the principles of institutional liberty shown in these pages, are attributed to Congress, and not to General Sheridan, whose merits as a soldier are known and confessed by all men, and who could but obey orders and do the duties assigned.

On March 27th, 1867, he began removing the state and other officials previously elected, and appointing their successors, whom he judged more fit for the places. The first was Andrew S. Herron, Attorney-General of the State, and afterwards a member of Congress. John T. Monroe, Mayor of New Orleans, Edmund Abell, Judge of the Criminal Court, and others, were similarly ousted.

In April, General Sheridan appointed the Board of Registration, to whom was given full and complete control of all the registration and election machinery of the state.

It will be seen that he was complete dictator of the Fifth District in a sense never known before in America. He had absolute control of all the offices, with power of removal and appointment; he could annul or change any laws which did not meet his favor; and with his control of the election and registration machinery, he could elect any persons he chose.

The power of removal and appointment was fully exercised by him, even in cases in which politics played little part, his obvious and avowed intention being to remove obstacles *to reconstruction*, and to place Louisiana wholly under *the control of men* who agreed with him as to the manner in *which the state* should be ruled. The new Mayor of New

Orleans—Heath, his appointee—was ordered to re-organize the police force, so that at least half of its members should be ex-Federal soldiers; and the Levee Commissioners—a body wholly non-political, and representing the planters and owners of property fronting on the Mississippi, protected by levees from overflow—were removed, and men more in sympathy and accord with his views were appointed in their stead. In this matter alone, did the general finally recede. He had dismissed from these important offices men fully acquainted with the levee system of the state,—men who represented the planters and farmers paying the levee taxes, and who were skilled and efficient in their duties. After trying his new board three months, finding the state threatened by overflow from the June rise, he receded from his position, dismissed his own appointees, and reinstated the old board.

He, before he had been in command very long, removed the Governor of the state, the Street Commissioner of the city, and numerous others. At the same time, he interfered with the District Courts in the matter of issuing naturalization papers, expressing the opinion that too many were being issued. A final order, just previous to the election of members of the Constitutional Convention, prohibited the assembling of men, in certain parishes of Louisiana, for political purposes.

Such were the conditions under which, on September 27th and 28th, 1867, an election was held in Louisiana for delegates to a convention that was to frame a new Constitution for the state. With nearly all the state and city officials removed, and men appointed in their places by the Military Commander; with the laws suspended, and public meetings prohibited; with jurisdiction over the naturalization, registration and election laws in his hands, the election was placed wholly under his control. Not even after the result was known, did the removals cease; for the sheriff of Orleans Parish was ousted November 16th, and the Lieutenant-Governor a few days afterwards.

The appointment of General Winfield S. Hancock to the command of the Fifth Military District, November 29, 1867, stopped all these military interferences in purely civil mat

ters. In an order issued December 5th, General Hancock gave the true and proper scope and use of military power. He declared that justice in the criminal courts had been clogged and frustrated by former military orders in regard to jurors, and he announced that, in future, trial by jury, *habeas corpus*, liberty of the press and freedom of speech would be preserved, and not interfered with by the military authorities.

In another order, touching on the frequent differences between the civil and military authorities, he laid down this doctrine: "The administration of civil justice appertains to the civil courts. The rights of litigants do not depend on the views of the general commanding this district; they are to be adjudged and settled according to the laws. Arbitrary power, such as the General has been urged to assume, has no existence in this country."

It is difficult to understand how so self-evident a proposition as this could be denied, or a contrary doctrine be insisted on and carried out, by General Hancock's predecessor.

S. B. Packard, afterwards United States Marshal, and claimant to the office of Governor of Louisiana in 1876, was president of the Board of Registration at the time of the vote on the convention, and became engaged in a controversy with General Hancock, which resulted in his arrest. The military power, as represented by General Hancock, was not progressive, arbitrary and tyrannical enough to suit the views of those who understood the reconstruction acts and military rule to be simply for the purpose of placing the Republican party, backed by the negro vote, in control of the state.

The registration which had been carried on under the board appointed by Sheridan, and over which Packard presided, was wholly in the interest of the Republicans, and was so intended to be. All those citizens who, during the war, had held any civil offices under the Confederate States, were disfranchised; naturalization papers were disputed and refused, and white voters denied registration. The result was *to reduce the white* registration of the state to 45,218, or *arely two-thirds of* what it ought to have been; while the *gro registration*, by false personation and repeated enrol-

ment, was made to be 84,436, or one voter to every four of the colored population. In New Orleans the 50,456 negroes registered 15,020 votes, while of the 140,983 whites, only 14,890 were registered. Though the white population was nearly three to one, the negroes were registered in a majority.

The election which followed under these conditions, April 17th and 18th, 1868, was an easy and overwhelming victory for the party (Republican) which Congress, by its reconstruction legislation and its military interference, had intended should be placed in control of Louisiana.

The election of April, 1868, brought an entirely new set of men to the front in Louisiana—men who had never been heard of before—men who had had no experience whatever in public affairs, and many of whom were not citizens, and had lived in the state but a very short time. In the Senate, there were but half a dozen members of the white race, in whose hands the government had wholly been during all the time that Louisiana had been a state, and but comparatively few whites in the House. In fine, the new Legislature consisted mainly of negroes (mostly former slaves) and whites who had recently moved into the state—generally of that class called carpet-baggers.

LOOK ON THIS PICTURE,	AND ON THIS.
WAR!	PEACE AND SELF-RULE!
1864.	1868.
General Shepley, acting under government orders, ordered an election, declared who should vote, registered the voters, and held the election.	General Sheridan, acting under government orders, ordered an election, declared who should vote, registered the voters, and held the election.
The electees, in convention, made the Constitution of 1864.	The electees, in convention, made the Constitution of 1868.

Mark the vital differences. Shepley acted after the government had declared war, and Sheridan after the government had declared peace!

Shepley acted only on ten per cent. of the state, without *usurpation*, while Sheridan, or whoever was responsible

usurped, and was ten-fold more violative of freedom and self-government. But Shepley, as we shall see, was justifiable, while Sheridan had no earthly excuse, but unlawful orders! But he had no option; Congress commanded him to act, and report that "order reigns in [the Southern] Warsaw"!

V. THE ADVENT OF WARMOTHISM.

The political "gypsy swings his pot and pitches his tent wherever there is a prospect of [political] plunder."

Warmothism and political gypsyism, when analyzed, will be found synonymous. Their terrible import is, in a measure, seen in the following sketch, made from the vast mass of facts —many volumes in extent—which constitute the reconstruction history of Louisiana. The intelligent citizen of the state will say when he gets through—"the half (or even the tithe) has not been told."

Warmothism operated for eight years. Kellogg (a mere incident) could but add to the evil and aggravate its harm. His administration was "pork still, with change of sauce;" as will be seen. At the head of the new government and party was a young adventurer—a political gypsy, named Henry C. Warmoth—who had come to Louisiana in the Federal army a short time before, from which he had been, as was credibly stated, dismissed for good cause; and who had ingratiated himself with the negroes, by organizing them, and insisting upon their political rights, long before Congress did so. As early as 1866, before the negroes had been granted the elective franchise, Warmoth had held a mock election, at which they voted, and had had himself returned as a delegate from the territory of Louisiana, under universal suffrage. A queer attachment to this election, but very characteristic of Warmoth, was the placing of boxes at the polls, where the negroes who voted could contribute fifty cents each to a fund for paying his expenses to Washington to assert his claims. The negroes *had never exercised* the elective franchise before; they felt *honored thereby;* and they gladly paid for the privilege of *voting for Warmoth.*

This little episode—while productive of no important results at the time, for Congress promptly rejected his claim, based as it was, on the ballots of negroes, on whom it had not, as yet, conferred the elective franchise,—made him the idol and hero of the negro race; and in the convention which followed, he was nominated and, in the subsequent election, chosen Governor.

The ensuing Warmoth *régime* proved far more oppressive and injurious than the previous military rule.

Under Warmoth, the dictatorship was still more pronounced, all the affairs of the state being concentrated in the hands of the Governor, at the same time that a system of spoliation was organized which, in a comparatively short time, raised the taxation to the highest limits ever known in America, swelled the state debt to many times what it had been before, and reduced the proud commonwealth to unexampled poverty.

The system of spoliation then organized, continued until the gang that worked it, quarrelled among themselves over the plunder, and finally turned state's evidence against each other. It was in this way alone, that the world was made acquainted with the evil doings of this conspiracy against the people and their treasury.

The Legislature, elected under military control, assembled in New Orleans, June 29, 1868, and Warmoth was inaugurated July 13th. The first action of the Legislature was to shut out the Democratic members by a test-oath. The Republicans organized both houses, appointed a committee to investigate the claims of the Democratic members, and finally seated those they pleased. The Democrats admitted, constituted at best, merely a corporal's guard, unable to obstruct the various jobs which soon found their way before the Legislature.

Recognizing the fact that the election of April, 1868, had been carried by suppressing the white vote, and by the fraudulent registration of the negroes, the Warmoth Legislature, *in which the* Republican influence was overwhelmingly predominant, set to work at once to so change the registration laws of the state, as to prevent the people from ever overturning the Government at the polls. The general idea

the Legislature was to concentrate all the election machinery in the hands of the Governor. A number of laws of an experimental character were passed, and it was some time before Warmoth was fully satisfied. The election laws of Louisiana from 1868 forward, for ten years, were purposed for fraud and suppression of the popular will. Her system of registration, returning boards, the throwing out of votes, etc., was adopted in most of the other Southern states. No better machinery for fraud and tyranny was ever conceived; for with the power given to the Governor by the various laws referred to, he could name every official and control the state absolutely.

One of the first acts created a Board of Registration, consisting of three members, appointed by the Governor, which Board had the appointment of the Supervisors in the several parishes. Warmoth, who was always suspicious, was not satisfied with the power of appointing these officials, but adopted the precaution which he ever observed, of insisting upon a blank resignation with every appointment, so that if any of the Supervisors of Registration were rebellious, or failed to carry out his wishes, they could be removed at once by filling in a date to their blank resignations, and appointing a more obedient official. There was no requirement that the registration officers should be residents of the parish in which they acted, and a great majority of them were chosen from New Orleans, from among the large number of adventurers to be found in a great city, and some even were citizens and residents of other states. The Supervisors of Registration of a number of parishes had never set foot in them before they arrived there to conduct the elections; and, in many cases, these non-residents announced themselves as candidates for the Legislature, and returned themselves as elected thereto.

As a further safeguard, and to assure the fidelity of the supervisors, they were liberally paid. For example, for the partial registration of 1868, the large sum of $147,-341.40 was divided among the Board of Registration and the *employees.*

This registration and election machinery, however, gav*ay before an* uprising of the people; and in the Preside

tial election which followed that of Warmoth a few months, the Republicans were defeated by an overwhelming majority. Whereupon, the Legislature improved on its registration laws, and developed the more perfect machinery of the Returning Board. By the provisions of the registration and election laws, the decision of any Supervisor of Registration on matters relating to the registry of voters was final, and not subject to revision or correction by any court. The courts were indeed prohibited from interfering in any way with these Supervisors, or their assistants. And the judge of any court so interfering, was subject to a fine of $500 and impeachment. After the votes were cast, they were counted in secret by the Supervisor of Registration, surrounded by his appointees, and sealed and sent to the Governor. At a later day, still another improvement was added to the election machinery, by the creation of a Returning Board, whose duty it was to return the vote of the state. If the Commissioners of Election, or the Supervisor of Registration of a parish, accompanied any report by the statement that there was a disturbance, riot, tumult, intimidation or bribery at any poll, the Returning Board could, if it saw proper, throw out that poll, or the vote of the entire parish.

This law placed the whole control of the election in the hands of the Governor, and enabled him in 1870 to carry the state by an overwhelming majority, and even the Democratic city of New Orleans.

The entire legislation of the first General Assembly held in Louisiana under the reconstruction acts and the so-called Constitution of 1868, was devoted to measures of this kind, intended to fortify the Republican party in power, so that it could never be ousted; and the machinery was so very complete and complicated that a practically unanimous people could not have driven the Republicans out, save by a popular uprising.

In addition to the registration and election laws, which, it *was hoped,* would control all elections, police and constabu*lary laws* were passed, creating a standing army in New Or*leans and* the parishes, under command of the Governor; *w,* which caused the establishment of B

publican organs in all the parishes, and gave them a monopoly of printing the laws and public advertisements. The police control of New Orleans, which had always been in the hands of the people, was taken from them and given over to a commission, appointed by the Governor, and consisting of three colored and two white Republicans.

The Legislature of 1868, started with a Republican majority, which it increased, from time to time, by ousting Democratic members. Of the dominant party, only ten were tax-payers. Corruption and bribery reigned supreme, and the knaves, to avoid any possible danger, refused to pass any bribery law, so that it was no crime to bribe a public official. Those of them who did not make money in this way, were rare exceptions. When Mr. S. W. Scott swore before a Congressional Committee that he had seen money paid out as bribes to the Lieutenant-Governor, Pinchback, and to the Speaker of the House, Mortimer Carr, neither denied the statement, nor did either cross-examine him. When he charged that it cost more to get the signature of the Governor to his bill (a subsidy for a railroad) than to get the measure through the Legislature, and that it cost eighty thousand dollars in all, Governor Warmoth entered no protest or denial.

When, later, these eagles fought over their prey, and exercised their talons on one another, a series of reciprocal portraitures appeared, which do full justice to the originals. Warmoth gave some testimony as to the corruption and bribery which prevailed, and the manner in which the spoils were divided. Here are his pictures of the most prominent men in his party.

Casey, Collector of Customs, got through the Legislature a bill, incorporating a warehouse company, in which he was interested, and appropriating $1,400,000 of State Bonds as its capital stock. He was also interested in the New Orleans Shed Company, which proposed to monopolize the levee front; and was custodian of the $18,000 corruption fund raised to get this measure through the Legislature.

Postmaster Lowell worked for the Ship Island Canal bill, *which appropriated* all the swamp lands in the vicinity of *New Orleans, for* a company in which he was interested.

United States Marshal Packard was interested in the Nicholson Pavement bill, which Governor Warmoth was offered $50,000 to sign.

George W. Carter, Speaker of the House, on account of his influence, received an interest in the Louisiana Levee Company, which was drawing millions out of the State Treasury annually, was the paid attorney of nearly all the railroads requiring legislation, although he never performed the slightest service for them beyond pocketing bills which they deemed objectionable. He also worked through an appropriation of $25,000 a mile for a railroad in which he was interested, the Louisiana Transit Company, and secured a subsidy of $1,000,000 in bonds for a favorite steamship company.

John Ray, Senator from Ouachita, got $70,000 for revising the statutes, besides $546,000 in State Bonds in aid of a railroad, the Vicksburg and Shreveport, in which he was interested. He had, moreover, an interest in the Louisiana Levee Company, of which he subsequently became President. To this company he voted an appropriation of $9,000,000, with a one per cent. tax for twenty-one years, the company being authorized to issue bonds in anticipation of these taxes, which bonds the state endorsed and guaranteed.

Such were the charges made by Warmoth against his associates, and not denied by them. Corruption was believed by the public to be universal. The men thus accused were equally free in their charges against Warmoth. They pointed to the fact, that whereas he had come to Louisiana poor—so poor, indeed, that he had been compelled to appeal to the negroes for a charity fund to send him to Washington to claim a seat as delegate—he became rich within a year of taking office; and they pointed out that he had concentrated in his person, through the registration, election, police and other laws, all the powers of the state.

The Governor could keep an act, passed by the Legislature, *in his pocket* as long as he saw fit, and veto or approve it at *any time;* and he did, as a matter of fact, on November 20th, *1872, sign* and promulgate a law, which we shall recur to, *giving him* further power over the elections, which had be

passed by the Legislature which had adjourned eight or nine months before.

VI. WARMOTHISM.

It is difficult to show the exact amount of spoliation under Warmoth. The annual expenditures give only a faint idea of it. A vast deal was done outside of law, and not recorded, but became known—suggesting probabilities of much undiscovered wrong. The following table gives some idea of the profligacy under Warmoth, by comparison with similar expenditures under a Democratic administration:

Cost of Collecting Taxes, ...	$493,324	$52,726
Cost of Public Printing, ...	390,000	25,000
Legislative Expenses, ...	626,000	37,000
Average Annual Expenses, all purposes,	5,278,915	1,092,931.

In one year, to collect taxes amounting to $4,136, 118, the state tax collectors receiving $493,324, or 12.3 per cent. Warmoth's perquisites therein were an unknown quantity, but his rapidly increasing wealth seemed to be an index. From their knowledge of his greed, his quickness of apprehension and his genius for contrivance, Louisianians think that all his tax gatherers left with him their blank resignations, and their promise to divide fees with him. At all events, while the writer cannot record as history the fact or the share, he deems it good history to say that every thinking man of that plundered state believes that Warmoth got a large share of the fees in question. The statements of his co-conspirators, now scattered abroad, would be worth hearing.

In a single year, 1871, the legislative expenses were $626,000, and even this was exceeded by an over issue of $200,000 of fraudulent warrants, making the cost to the state of a short session of $6,150 for each legislator. This over issue of legislative vouchers forced these warrants down to 2½ cents; yet when the funding board met in 1874, these warrants, *bought at two* and one-half to five cents on the dollar, *were funded at par.*

The annual expenditure of the Warmoth government d

ing the four years and five months it was in power, was as follows, not including the increase made in the state debt:

1868, from July,	$3,837,877.74
1869,	4,294,677.16
1870,	7,131,202.11
1871,	6,425,831.50
1872,	4,704,983.65
Total for 4 years and 5 months,	$26,394, 578.25.

To this must be added the bonds issued in support of the various measures, in which the governor and other Republican leaders were interested. It was notorious in that deplorable time that he and they all lobbied on the floor of the Legislature in favor of their pet measures, and that every prominent member was promoting some bill which he hoped would make him rich. Every possible mode of robbing the treasury under the forms of law, seemed to have been devised and started on the Legislative road, with all possible vigor of greed, and with high hopes of success.

Soon after coming into office, Governor Warmoth called attention to the state debt, and to the facility with which it could be increased. In his message to the Legislature, January 4, 1868, he said: "The total bonded debt, exclusive of bonds owned by the state, is $6,771,300, and this sum is further reducible by $871,000. The floating debt is $1,929,500; and it is expected that enough can be realized from the special one per cent. tax to discharge the entire floating debt, and leave a surplus of $500,000." "Our debt is smaller than that of almost any state in the Union," continued Warmoth, significantly; "with a tax roll of $251,000,000, and a bonded debt that can at will be reduced to $6,000,000, there is no reason that our credit should not be at par."

Acting on this suggestion, the Legislature and State officers went to work at once to utilize this good credit to the fullest *extent.* The census of 1870 showed the debt of the state to *have increased* to $25,021,734, and that of the parishes and *municipalities* to $28,065,707. Within a year the state debt *was increased* four-fold and the local indebtedness had doubled. *Louisiana,* according to the census, stood, in the matter of debt

at the head of the Union. With an indebtedness per capita of $73.03, the next state to it, the rich commonwealth of Massachusetts, having a debt of only $47.49 per capita, Louisiana's debt was over 20 per cent. of its assessed wealth.

This, however, was only the beginning of Warmoth's *régime* —the first year and a half of it. In 1870 bonds to the amount of $7,000,000, were issued to the Louisiana Levee Company, in which so many of the Republican leaders were interested, $500,000 for the state penitentiary, and $474,000 for the Mississippi and Mexican Gulf canal. In 1871 bonds to the amount of $2,500,000 were issued in aid of the Mobile, New Orleans and Texas Railroad. In addition to this the state had made itself responsible for the payment of bonds lent to the various banks, aggregating $6,579,683, with miscellaneous debts of $3,476,269, bringing the total up to $41,733,752.17 (report of State Auditor, January 1st, 1872). In his message to the Legislature, Warmoth, at the same date, estimated differently, and placed the state debt at $41,194,493.91. A committee of the Legislature, appointed to investigate the matter, found that both the Governor and Auditor were too low in their estimates, and, after itemizing the state debt, placed it for 1872 at $48,029,349.95. Adding to this the parish and municipal obligations, the total indebtedness of Louisiana in 1872 was $76,095,056.78.

Under Warmoth the Republicans had added to the state and city indebtedness of Louisiana $54,325,759, with nothing whatever to show for it. The cost of these four years and five months of misrule was, therefore:

Money actually expended by state, ...	$26,394,578.
By local bodies (partly estimated)	25,300,000.
Increase in debt (state and local), ...	54,325,759.
Total cost 4 y'rs and 5 mo's Republican misrule, . .	$106,020,337.
Amounting per year to, ...	$24,040,089.

In a little over four years the Republican party had spent nearly as much in amount as half the wealth of the state. Of *the bonds issued, a* large part bore interest at eight per cent. *Such profligacy* necessarily required a heavy rate of taxation. *The state tax* in 1867, just previous to Warmoth

election, was 3¾ mills; in 1869 it was raised to 5¼; in 1870 to 7½; in 1871 to 14½; and in 1872 to 21½ mills, at which figure it remained for some years. The taxation in New Orleans which had been 15 mills previous to the election of Warmoth, became 23¾ mills in 1869; 26⅓ mills in 1870; 27½ mills in 1871; and finally 30 mills, or 3 per cent. in 1873. Some of the country parishes fared even worse, and in one case (that of Natchitoches) the taxation reached 7.9 per cent—much more than the average interest on capital invested, or the productive power of property.

But, great as is this total of $106,020,337, spent by Warmoth and his followers, it does not represent all the depletion Louisiana then suffered. To it must be added the privileges and franchises given away to favorites, and the state property stolen. To one company was given all the swamp lands in the vicinity of New Orleans; to another rights and franchises on the levee, or river front, of New Orleans, worth hundreds of thousands of dollars. And, as if this were not enough, the school fund of the several parishes, resulting from the appropriations and land donations made by the State and Federal Governments, were plundered. In his report for 1873, State Superintendent of Education W. F. Brown, a Republican and a colored man, called attention to some of these thefts, as follows: Stolen in Carroll parish, in 1871, $30,000; in East Baton Rouge, $5,032; in St. Landry, $5,700; in St. Martin, $3,786.80; in Plaquemines, $5,855; besides large amounts in St. Tammany, Concordia, Morehouse, and other parishes. The entire permanent school fund of the parishes disappeared during this period.

The state had at the time of Warmoth's inauguration a trust fund of $1,300,500, for the benefit of the free public schools. The bonds which represented this fund—the most sacred in the custody of the state—were sold at public auction in June, 1872, for $1,096,956.25, and the proceeds, instead of being given to the schools, were set aside to pay the warrants *which had* been issued by Warmoth for purposes foreign to *the legitimate* public use, and held by a ring of jobbers and *brokers who had* bought them at a heavy discount.

In like manner other property belonging to the state w

plundered. Louisiana had, in previous years, subscribed to aid the construction of various railroads, and held their bonds in return therefor. It had $650,000, of the bonds of the New Orleans, Opelousas and Great Western Railroad; 35,360 shares of the New Orleans, Jackson and Great Northern Railroad, for which it had paid $884,000; $298,000 in the Vicksburg, Shreveport and Pacific Railroad; and stock or bonds in the New Orleans & Nashville, and the Baton Rouge, Grosse Tete & Opelousas Railroads.

Under Act 16, of 1870, the $884,000 interest of the state in the Jackson Railroad was sold for $141,000, or $4 per share; and, under the same act, the interest of New Orleans in the same road, nominally $2,000,000, was sold for $320,000. Under Act 81, of 1872, the state's interest in the Opelousas Railroad was exchanged for warrants at 65 cents on the dollar. When, however, the authorities examined these bonds, preparatory to selling them, they found that the treasury had been despoiled of a great many of them by previous wrongdoers, and it was morever, ascertained that interest had been paid regularly on the stolen bonds, although they were known to be stolen, and in the hands of the thieves. The money obtained from selling these and other trust funds, was set aside for the payment of warrants or in aid of various projects in which Warmoth and his followers were interested. According to a report of a committee of the Legislature, the state held in 1865, in trust funds, state bonds, collections, etc., $8,244,468.24, and the municipalities, parishes, and school districts, about $4,000,000 more. By the end of Warmoth's *régime*, all these funds had disappeared, a large portion of them being openly stolen, and the rest squandered or divided among the conspirators. This brings the spoliation, or embezzlement, or stealage, or whatever it may be called, up to nearly one hundred and twenty millions, or more than half the wealth of the state.

By act 49 of 1869, New Orleans was authorized to issue bonds for the retirement of certain notes and indebtedness. The bonds were issued, but only $1,500 of the notes were *retired, the money* being misappropriated to other purposes, *$805,000 going* for the support of the Metropolitan Police *or state constabulary*, which Warmoth entirely depended

for the defense of his government against an oppressed and plundered people.

Space can be given to only a few more of the almost innumerable jobs or swindles that marked that *régime*. In 1864, in the last year of the war, a Mr. Weil furnished the state with supplies, for which he received certificates of the state government to the amount of $150,000. These certificates were presented to Warmoth, and he was asked whether he would sign an act validating them, if it were passed by the Legislature. He replied that it could not be done, as the Legislature could not constitutionally validate a confederate claim. The Legislature subsequently authorized Mr. Weil to sue the state for the money, and Warmoth vetoed the bill; but when the auditor's report came out, it was found that the Weil claim had been funded by Warmoth's funding commissioners, and that Warmoth himself had been one of them. It was stated that he as Governor signed the bill making the settlement and appropriation before the Speaker of the House had done so. It became a law Saturday night, and the bonds for settlement were handed over on Monday morning early. It was this claim that Thomas C. Anderson, of Returning Board fame, who was then a Senator, had bought for $10,000, and had lobbied through the Legislature. How far he and Warmoth may have co-operated and divided it all, can only be surmised.

Warmoth received $100,000 worth of stock in the Mississippi and Mexican Gulf Canal, for which, according to his own testimony, he did not pay a dollar; yet he lobbied through the Legislature and signed a bill giving $480,000 of state bonds to this company, of which he was one of the largest stockholders.

The public printing of the state, in English and French, had, in previous years, cost about $37,000 a year. During the first two years and a half of Warmoth's *régime*, the New Orleans *Republican*, in which he was the principal stockholder, *received* $1,140,881.77 for public printing.

His gathering the reins of autocratic power, as he did do, *through his* election, registration and Returning-Board laws, *necessitated that* concomitant—his standing army. Act No

74 of 1870, known as the constabulary law, gave the power to appoint one chief constable in every parish, he to have the right to appoint as many deputies "as he might deem fit." The chief and deputy constables received commissions from the Governor, and were by this Act "subject to his orders" "to make arrests, quell riots, etc." The Governor could send the constabulary from one parish to another, whenever necessary. Their pay was large—$3 and $4 a day, and the parishes were required to provide it from the parish taxes.

By Act 92 of 1869, Warmoth and the Legislature had created another armed force, known as the Metropolitan police. This body was controlled by a commissioner, appointed and removable by the Governor. Originally intended for the city of New Orleans and vicinity, its jurisdiction or field of service was extended to the entire state; and it was sent to various parishes by order of the Governor. It was armed with rifles and revolvers; and supplied with Gatling and Napoleon guns; and a portion of it was mounted on cavalry. Afterwards, under Kellogg, this force of infantry, cavalry and artillery was added to by the purchase of vessels, thus providing Louisiana with a navy as well as a standing army. This army alone cost the state $847,395 for 1869; $887,850 for 1870, and averaged about that amount thereafter.

Having secured the control of the elections, and created a standing army, Warmoth's next step was to obtain possession of the judiciary, so as to prevent any judicial interference with his schemes. The Constitution of 1868 provided for the election of the judges. This trouble was easily circumvented by the Legislative creation of two new courts, one civil and the other criminal—the two having jurisdiction over all public matters; and the vesting of the power of appointing the judges in the Governor. Of course he appointed his own creatures, taking their blank resignations, so that he could remove them if they failed to suit him, thus rendering any judicial interference with himself impossible. All cases of a public character, all contests for offices, writs of quo warranto, &c., &c., had to be submitted to his judicial appointees and obedient servants.

By these laws he had obtained a complete dictatorship ov

Louisiana. Any state official who resisted him was removed. The Secretary of State, Geo. E. Bovee, who had been elected on the same ticket with him, and who was a Constitutional officer, was removed by him because of a quarrel. He sent his chief of police to the state-house, who ejected Bovee and installed the new appointee, General Herron. Bovee objected, but Warmoth's police was too strong. He appealed to the courts, but his claim was rejected by Warmoth's judges. It was conceded thenceforth that the Governor could remove whom he pleased, and that there was no appeal against his mandates. Of the other state officials elected with him, the Lieutenant-Governor, Dunn, a negro, died, and the Auditor, J. C. Wickliffe, was impeached for embezzlement and crimes in office; and he fled from the state.

In 1870, the new election law was tried, and found to effect all that it was designed for. The city of New Orleans was turned over to the mercies of Warmothism. Its population was three white to one colored, and it was overwhelmingly Democratic, voting against Warmoth, even in 1868, when more than half its white citizens were disfranchised; yet with the election machinery, he was able to carry the city by a majority of from six to eight thousand. His Supervisors of Registration worked nearly a week in private on the votes, and finally returned thirteen of the fifteen wards of the city, all with overwhelming white majorities, as Republican, and counted in among the hundred and odd electees, but four or five Democrats. New Orleans and the State of Louisiana were both now in Warmoth's hands.

The election of 1870 marked the summit of his power. At no time in the history of America, even in the South American States, had any man made himself so complete a dictator. But, over the spoils, arose the inevitable quarrel, and the two factions formed went heartily into their only good work, which was to acquaint Louisiana and the world with their rascalities and infamy, and make manifest the gross *wrong of* congressional reconstruction.

To the unexampled profligacy and corruption were now *added frequent* disturbances and riots, caused by their feud. *The two factions* kept up their fight from 1871 to 1876

The anti-Warmothites were called the Custom-house Republicans, as they were mainly the federal officials in the Custom House.

The Republican Convention of 1871 met in the District Court-room in the Custom House, a large body of deputy Marshals, backed by a company of soldiers, surrounding the Court-room, and refusing admittance to Warmoth and his followers. The fight was renewed when the Legislature assembled in extra session to choose a Lieutenant-Governor, in the place of Dunn; and again at the regular session in January, 1872. Carter, the Speaker, who was anti-Warmoth, was uneated by the Warmoth Legislators. The Custom-house action turned the tables by procuring warrants for the arrest of Governor Warmoth, Lieutenant-Governor Pinchback and ighteen members of the House, all friends of Warmoth; and hese arrests were made by the United States Deputy Marhals in the State Capitol. The Custom-house faction having von this victory, adjourned to Friday. Hardly had the House adjourned, when the Governor issued a proclamation alling the Legislature together in extra session, to meet the ame afternoon (Thursday), only the Warmoth men being otified of this. They met, elected a new Speaker, and exelled Carter from the Legislature. The Custom-house action, which learned of this only the next day, tried to nter the capitol, but were prevented from doing so by a large orce of police, armed with rifles, and they proceeded to a ar-room and organized in its hall.

This "war of the roses" caused disquiet and apprehension verywhere, as well as disturbances of the peace and riots. he Sergeants-at-Arms of the two Legislatures scoured the ty with armed assistants, arresting members wherever found. ne of the Representatives, Walter Wheyland, was killed hile resisting arrest. Large bodies of armed men paraded ie streets. A mob from the Custom-house faction, to rm themselves broke into several armories and gun-shops. he situation reached a very critical condition January 22d, *hen a great battle* between the two factions seemed immi*nt. George W.* Carter, who claimed to be Speaker of the *stom-house Legislature*, issued a proclamation, calling upo

all citizens "to organize and arm themselves as well as they were able, and report to him, when they would be sworn in as Assistant Sergeants-at-Arms."

Governor Warmoth, on his part, fully equipped and armed his standing army, the Metropolitan Police, stationed them in position in the vicinity of the State House, immediately opposite Carter's army, and prepared for battle. A great struggle seemed imminent, when General Emory, in command of the United States forces, acting under instructions from President Grant, interfered, and informed both Warmoth and Carter that he had received instructions from Washington to suppress all conflicts between armed bodies that might occur. This refusal of the Federal Government to interfere in their behalf, demoralized the Custom-house party, which had been led to expect assistance, and they rapidly dispersed, leaving Warmoth master of the situation.

It was a barren victory, however. After the bitterness that had been shown, and the blood that had been shed, it was impossible to bring the factions together again; and two distinct Republican parties thenceforward antagonized each other in Louisiana, the National and Liberal Republicans. The Democrats saw their opportunity, and obtained from Warmoth a pledge that the approaching election of 1872 would be honestly conducted, and the vote counted as cast. This was granted as a special favor by Warmoth, it being understood by all, that had he decreed differently, it lay within his power to declare any persons elected he saw fit.

The first contest of the factions was over the control of the Legislature, and therein Warmoth was too shrewd for his enemies. A second was over the election of 1872. Sorely needing help, he sought an alliance with the Democrats, and promised them, among other things, that they should have a fair election, and that the registration and election laws should not be used against them as had been done in 1870.

Two full state and legislative tickets were placed in the *field—the* Fusion ticket, headed by John M'Enery, which *depended for* its main support upon the Democrats; but which *was also* backed by Warmoth; and the regular Republican

ticket, headed by W. P. Kellogg, who had represented Louisiana in the Senate.

The election was held November 4, 1872, under the registration and election laws which Warmoth had used with such effect against the Democrats two years before; the supervisors of registration made returns to Warmoth and the Secretary of State, and they turned them over to the Returning Board, which then began to acquire its national prominence.

When that Board met, the Secretary of State, Herron, was suspected, and therefore supplanted, by Warmoth, with Jack Wharton, which made the latter an *ex-officio* member of the Board. On the legality of this change the result of the election depended, for the Returning Board consisted of three members, the Governor, Lynch and the Secretary of State—the latter having the deciding vote. The Board soon split into two, Warmoth and Wharton acting as one, and filling the vacancies by election; and Lynch and Herron organizing another.

Both Boards went into the Eighth District Court, the political court created by Warmoth to further his own ends; but the Judge had lately turned against him, and the Lynch party obtained an injunction in its favor prohibiting the Warmoth Board from counting the votes. The question also went into the United States Circuit Court, on the claim that some ten thousand persons had been denied registration, and that some three thousand to five thousand negroes had been deprived of their right to vote.

This case—Kellogg *vs.* Warmoth—could not have involved the validity of either Board, but Judge Durell chose to usurp jurisdiction, and held that the Lynch Board was the legal one, and issued a number of orders and injunctions in its favor, notably the remarkable one soon to be presented.

He prohibited the other Board from canvassing the vote; prohibited McEnery from acting, or pretending to act, as Governor; and prohibited the official journal from publishing *any announcement of* the election emanating from the Warmoth Board.

The Governor countervailed this by pulling out of his e

an Act passed by the Legislature before it adjourned, many months before, which he had neither signed nor vetoed; and he now signed and promulgated it, thereby creating an entirely new Returning Board, the members of which he had the power to appoint. These appointments were made; the new Board met, canvassed the vote, and declared, on December 4th, just one month after the election, that McEnery and the entire Fusion ticket were elected.

On the succeeding night came a clap of thunder. At midnight, on December 5th, Durell, the United States District (acting as Circuit) Judge, in the presence of Kellogg's counsel, one of them the United States District Attorney, and one other person, handed out his famous midnight order to Packard, United States Marshal. It was generally said and believed that the judge was intoxicated, his signature being referred to as one of the evidences.

This order or edict was unquestionably the most remarkable ever issued in America. On the pretence that Warmoth had committed contempt of his court, the United States Marshal was ordered to take possession of the state-house and hold it at his (Durell's) will, and to prevent all unlawful assemblages therein.

The Republican party of the country seemed to disavow the judge's action and denounce him, threatening impeachment, etc., whereupon he left the bench; but said party never made any attempt to right Louisiana's wrong. Of this order, the Republican Senate Committee, which investigated the matter, said:

"It is impossible to conceive of a more irregular, illegal and in every way inexcusable act on the part of the judge. Conceding the power of the court to make such an order, the judge, out of court, had no more authority to make it than the marshal. It has not even the form of judicial process. It was not sealed nor was it signed by the clerk, and had no more legal effect than an order issued by any private citizen."

Let us add to this Republican committee's report, the statement of that most eminent and able of Republican senators, *Hon. M. H.* Carpenter, of Wisconsin: "The testimony shows that he went to his lodgings, and about 11 o'clock at night,"

issued this order to seize the state-house. . . . The marshal executed that order, and a company of Federal troops garrisoned the state-house at midnight, and held it in military custody for more than six weeks, during which time the farce of organizing the Legislature on a *mandamus* of the same judge was enacted." He says further that while the state-house remained in such custody, this Legislature elected Pinchback United States Senator; and that it was under such process of this court, and while the state-house was thus federally held, that the Kellogg Legislature was organized on the basis of the Lynch board's count—which we may add was no count, as it had no votes or returns whatever to count.

Under Durell's order, however, two companies of United States artillery took possession of the Louisiana State Capitol, ousting the police and state troops, and allowing no one to enter the building except on an order from the United States Marshal.

Within a few hours, the Lynch Returning Board promulgated the alleged returns of the election, although it did not have a single return or ballot or scrap of legal evidence before it, declaring Kellogg elected by 18,861 majority, and the Legislature to be 106 Republicans to 40 Democrats. This result was obtained by pure guessing, as Lynch, the President of the so-called Board explained: "We took all the evidence we had before us, and our knowledge of the parishes and their political complexion, and then *we decided.* I think on the whole we were pretty correct."

Among the *data* on which this honest board based its conjecturing and guessing canvass, were many hundreds of affidavits which were subsequently proved to be fraudulent and forged by the man who manufactured most of them.

The United States troops guarded the State Capitol and prevented the ingress of any person except the Lynch Legislature. That body met, impeached Warmoth inside of five minutes, removed him from office, installed Pinchback as Governor and appealed to the Federal Government for more troops. Kellogg and his supporters asked the President for recognition; *and finally the* order came commanding the troops to *ustain Pinchback* as Governor and the Lynch Legislature *ainst all opposition.*

The writer must here say that in a sketch like this, not a tithe of the terrible facts can be given nor can proper reference to authorities be made, except in a general way at the conclusion; but it is well here to refer for important *data*, to the telegraphic correspondence between New Orleans and Washington, in "McPherson's Handbook of Politics for 1874," pp. 100 to 108; also *Id.* pp. 129, 142; and to the report of the Senate Committee on privileges and elections, session 1873–4.

Thus Federal power installed the Kellogg Government, which had never been elected, but did not give peace or order thereby. Kellogg, in some sort, served out his term, but his rule was never recognized, except when backed by Federal bayonets; and much friction, controversy, quarreling and even bloody conflicts were rife in all the state, because of rival claims to office.

Kellogg seemed disposed to encourage disturbances of this kind, as they justified his calling upon the Federal Government for troops; and, moreover, diverted the attention of the people from the fact that he had no title to the Governorship. The two boards had declared two sets of officers, in the most of the parishes, and Kellogg is said to have issued two sets of commissions in some instances, leaving it to the rivals, as he was reported to have said, "to fight it out."

By producing such contentions and conflicts, he might hope for a continuance of Federal aid, and keep the Federal power constantly impressed with the two rival governments, and its obligation to vindicate one of them!

It was this policy which brought about the Colfax riot, in which so many lives were lost. In Grant parish, of which Colfax is the seat of justice, two tickets claimed to be elected. Kellogg encouraged both parties, first commissioning the Nash ticket, as shown in the official paper, the *Republican*, and at the same time, or afterwards, commissioning the Shaw ticket. Nash was in possession of the Court House; Shaw seized and occupied it in the night time, just as Kellogg had done the State House, and summoned the negroes of the parish to Colfax to act as a posse to protect him in office. For three weeks Colfax was in wild excitement. Some 60

negroes crowded into the town, armed themselves, drilled, erected fortifications, and constructed cannon from gas-pipes. Occasionally they raided the surrounding country for provisions. The whites, alarmed, congregated in the vicinity of the town, all well armed.

It was quite evident that a serious conflict was threatened. Kellogg was appealed to, and asked to interfere and prevent the riot that was otherwise inevitable. He had ample time, —three weeks—to do this, but declined to interfere. He hoped, indeed, that in the fight the negroes would be victorious—such was the view expressed by the official paper, the *Republican*—and even if they did not prove so, their defeat would afford him an excuse for appealing for Federal protection. "The time is past," said the *Republican*, "when a handful of whites can frighten a regiment of colored men."

On Easter Sunday, April 13th, 1873, Sheriff Nash, with a *posse* of whites, undertook to recapture the Court House, which was then held by an illegal body of negroes, for Shaw, the other claimant of the Shrievalty, under whose call the negroes had assembled in Colfax, had long since deserted them. The fight over the Court House was a long and bitter one, 63 persons—white and black—losing their lives, and the building itself being destroyed by fire in the battle.

VII. WARMOTH-KELLOGGISM.

This was but one of a dozen similar, but less bloody, encounters which occurred in the state, in the contest over the offices, and which were encouraged by the Governor, to win him support in the North and the use of Federal troops.

A large majority of the people of the state never recognized Kellogg's election, and he found himself constrained to organize a force for a series of expeditions to establish his authority. The Metropolitan Police force was still further strengthened and increased to three thousand men, and mustered into the militia of the state. To aid them in their invasions *of the country* parishes, two steamers were purchased, *and became the* nucleus of a state navy. Although nominally *the police* force of New Orleans, and paid out of the

city treasury, this standing army of metropolitans was wholly under the control of the Governor, and could be ordered by him to any portion of the state on military duty. One of the first expeditions undertaken was to the parish of St. Martin, the property owners of which refused to recognize Kellogg as Governor or to pay their taxes to him. A force of several hundred "metropolitans," mounted as cavalry, and armed with Springfield rifles and cannon, were sent on the state steamer "Ozark" to St. Martinsville, to arrest the men who had defied Kellogg's authority. The expedition was a failure, and the "metropolitans," after remaining several days in the field, and exchanging shots with the natives, "marched down again" to New Orleans. The leaders of the tax-resisters were subsequently arrested by a United States Marshal, on blank warrants, charging them with blank crimes against blank persons, and brought to New Orleans before a United States Commissioner; and then discharged, because—to use his own words—"there is no proof to justify the detention of the prisoners." "The affidavits were made without a just cause." But, said Dogberry, consolingly, though "the defendants have been unjustly put to all this trouble and expense, yet this is a sacrifice they must be content to endure for the good of the body politic." He was one of the carpet-baggers, but is now esteemed by Louisiana as one of her "true patriots," for he has "left the country."

These refusals to pay the taxes to the Kellogg Government seriously incommoded it, and the Legislature, in consequence, passed a series of tax laws of the most stringent character. The most extraordinary of these contained a provision that any property-holder, failing to pay his taxes within thirty days of the time they fell due, forfeited thereby his right to bring suit for his own benefit, or to be a witness for or in his own behalf; and every court, having jurisdiction within the state, was ordered to deny and refuse to issue a civil process of any kind or nature for him, until he procured a certificate that *all his delinquent* taxes and costs had been paid.

All the iniquitous legislation of the Warmoth *régime, such as the registration* and election laws, and the Returning Board, *were continued*, and even improved on. Kellogg went

step further in the matter of the collection of taxes, and also in the selection of juries. It was deemed especially necessary to monopolize the administration of the criminal law of the state, and the Governor, therefore, secured, through an act of the Legislature, control of the criminal courts by creating a new one, with exclusive jurisdiction in certain matters; and was given, at the same time, control of the jury, a Commission, consisting of two members, appointed by him, and serving at his will, having full control of drawing all juries. This was followed by a law making it a crime for any one to claim to be an officer of the state unless declared elected by the Returning Board.

Such legislation, the Republicans thought, increased their strength, so that they could henceforward do as they pleased. They could, however, do little more in the way of issuing bonds, as, owing to the enormous debt, they were worth but twenty-five per cent. Under these circumstances, a happy device was invented by Kellogg, and put in practicable shape, which was to heavily scale the debt, and begin anew. It was, therefore, reduced forty per cent., and, in the funding and exchange for new bonds, which it was provided should be done by the chief officers of the administration, many frauds, and speculations, (almost equally criminal with simple frauds), were proved to have been committed—many being detailed in legislative and official reports not long afterwards. One of them—an enormity—requires a more extended notice, because *it shows the possibilities of Congressional reconstruction and political gypsyism combined;* and *teaches* us an invaluable lesson—unless the gods, aiming to destroy us, have made us mad. This funding board, having discretionary power, funded some $6,000,000 of bonds alleged to have been fraudulent, as a very large amount of them were proved to have been. It was charged, and generally believed, that some of these chief officers combined with brokers and speculators in buying up fraudulent and dishonored securities, and warrants of doubtful validity, at very low rates, and funding and exchanging them for new bonds; and it was said and believed that the net profits of the transaction were about, or over, $3,000,000.

The facts would have come out a year or two later, when the Democrats came into power, but for their finding that George B. Johnson, the Auditor under Kellogg, had taken away or embezzled all the books of the office, containing the evidence of the bonds, &c., funded, thus making it impossible to expose fully the frauds that might have been committed, or to discriminate between the good and the bad debt. A committee of the Legislature, which investigated this funding, found that this important body, though its duty was to fund the many millions of the state debt, and though it was trusted with control and issuance of many millions of dollars of State Bonds, had no office of its own, and no fixed place of business; but met, from time to time, in different offices in the state-house and elsewhere. On one occasion it met in New York, and did some business in funding fraudulent securities, as afterwards transpired. It kept but a meagre and imperfect journal of its proceedings, and even this was full of interlineations, alterations and corrections in different handwriting, with blank places left here and there, as if for filling up with additional matter. The legislative committee found it impossible to determine what bonds were destroyed, or what new ones had been issued, nor could they feel assured that a large number, or even all of those funded, had not been reissued. The opportunities for fraud can be easily imagined, while detection and even knowledge of its extent were forefended by the destruction or embezzlement of all the records.

The opportunities for spoliation were passing away. The state had been so impoverished that it was impossible to wring as much money from it as before, and the assessment during the last two years of Kellogg's *régime* reached the lowest limit known since 1830.

Despite all his stringent laws, Kellogg never exercised full dominion over Louisiana. Collisions between the metropolitans and constabulary and the people, frequently occurred, and severe battles took place in the streets of New Orleans. *How weak* and hollow the government was, soon became *evident.* Thanks to the United States troops and the metro*politans,* Kellogg had preserved a semblance of power; but a *single defeat* annihilated his government in a few hours.

In the campaign of 1874 the white people of Louisiana organized under the name of the White League. In New Orleans this League proposed to arm itself. Kellogg, who thought himself stronger than he really was, attempted to prevent this preparation, and to seize arms belonging to private individuals. The crisis was reached September 14th, 1874, when Kellogg attempted to prevent the landing of arms from the steamer "Mississippi," and the White League to secure them. He ordered his entire police force to the river front, stationed his cannon on the levee, and stationed cavalry in the adjacent streets. He had two regiments of metropolitans, under Generals Longstreet and Badger, on Canal Street, the principal thoroughfare of the city, besides a regiment of militia at the state-house. His police marched on the citizens; the two forces met on the levee, and a bloody battle ensued, in which forty were killed and one hundred wounded.

The hollowness of the Kellogg government became at once conspicuous. In twenty-four hours, and without another drop of bloodshed, the Kellogg state and parish governments were overthrown throughout Louisiana, and the officials elected on the McEnery ticket installed. Nowhere did any one, white or black, attempt to support Kellogg, or make the slightest resistance to the change. He himself fled to the custom-house, and his officers dispersed everywhere. This change lasted but a few days. From the custom-house, Kellogg appealed to the President for assistance. The United States officer in command at New Orleans, was instructed to interfere in his behalf, and to reseat him in the gubernatorial chair. At the head of the Federal troops he captured the state-house, and Kellogg resumed his government surrounded by bayonets. But although reinstated, his government was weaker and more tottering than ever, and without the spirit it had previously shown.

In the election of 1874, which followed soon after, the Democrats swept the state, and secured a good majority in the *Legislature*. Again the Returning Board interfered, *and, by throwing* out many polls and a number of parishes *manufactured* a Republican Legislature.

When the Legislature met, the Democrats secured control of the House, whereupon Kellogg adopted his old trick, and called on the Federal officer in command, Gen. De Trobriand, to interfere. A company of armed soldiers then entered and took possession of the Legislative hall, and, at the dictation of the Governor, a number of Democrats who had been elected, were arrested and marched out of the state-house between squads of armed soldiers. For days it looked as though a serious riot was imminent, for large crowds of excited citizens collected around the state-house. The presence of the United States troops alone prevented a collision and the overthrow of the Kellogg government.

When the matter was finally investigated by a Congressional Committee, a majority of which were Republicans, and over which Wheeler, subsequently Republican candidate for the Vice-Presidency, presided, it denounced in strong but proper terms the action of the Returning Board, and declared a majority of the Democratic members of the House elected. The Wheeler compromise, however, only postponed the final collapse; it could not give life or power to the Kellogg government, and as the election of 1876 drew nigh, it became more and more evident that the only hope of the Louisiana Republicans lay in a large force of United States troops.

These troops had been used in 1872 in seizing the state capitol, ousting Warmoth and installing the Lynch Returning Board; they were used again in keeping Pinchback in the gubernatorial office, and in dispersing the McEnery Legislature; they had installed Kellogg as Governor, and defended the state-house until his government was in working order. Again, in 1873, these troops were called on when the metropolitans had failed to arrest the white leaders in St. Martin, and Gen. De Blanc and others were arrested by the United States marshals, and brought to New Orleans. They were called into use in arresting the Grant parish prisoners, and raiding other parishes and bringing a number of *their* leading citizens to New Orleans. United States troops *dispersed, on* Sept. 17th, 1874, the McEnery state government, *which had been* installed by the people, and reinstated Kellogg in the state-house again in January, 1875.

dispersed the legal Legislature, arresting and ousting a number of members.

These frequent military interferences strengthened Kellogg in the idea that he could use the United States troops, and that his government depended on them for its existence. His telegrams to Washington were always for more troops, and still more troops, and his instructions to the Generals, commanding, showed that he deemed them under his command. Here are some of his instructions to General De Trobriand: "Please move your troops up to the State House."

"Please place sentinels at the entrance of the State House."

"An illegal assembly of men having taken possession of the House of Representatives, and the police being unable to dislodge them, I respectfully request that you immediately clear the Hall and State House of all persons not returned as legal members by the Returning Board of the state. The clerk will point out to you the persons returned by the legal Board."

Kellogg was thus the commanding officer of the United States forces in Louisiana, and the latter performed all the duties of a state police force or constabulary.

Gen. P. H. Sheridan, who had been sent to Louisiana to view the situation, in his telegram to the Secretary of War, suggested that confidence and fair dealing could be established in Louisiana by the arrest and trial of the ringleaders of the armed White Leagues. He urged that they should be declared *banditti*, and tried by a military commission. "It is possible," he telegraphed, "that if the President would issue a proclamation declaring them banditti, no further action would be taken, except that which would devolve on me."

Gen. Sheridan, innocent of political guile, was, as the writer saw, surrounded by a living, sentient, greedy and cunning wall, interested to keep from him the truth, and to preserve the *status quo*. They had convinced him, and, induced him to so inform the government, that 1500 murders of union-men and negroes—political murders—had been committed *in Louisiana since* 1868. This writer, deeply anxious *for his commonwealth*, but belonging to no party, carefully *ut quietly investigated*, in two or three of the parishes whe

he had the best of means of getting the truth. As to one of them, he wrote thus to the *Picayune*, January 11th, 1875: "If he will come [to Plaquemines Parish] and ask the negroes for aid [in gathering statistics] he will get many facts that will not quadrate with his theory; . . . he will find a score of murders of negroes in this parish, within the last year, most brutally done by negroes, while not a negro has been killed by a white man."

The above telegram *received the approval of the President;* and, with such a display of spirit, and the probability that it would be backed by adequate military force, the Louisiana Republicans decided to make the campaign of 1876 a military one. Between 500 and 600 persons had been arrested in the state at various times during Kellogg's *régime*, and brought by the United States troops or marshals to New Orleans. They had suffered great losses thereby, had been taken from their business and imprisoned; but, in every instance, when the cases against them were examined in court, all charges against them were dismissed. Many parishes suffered from these wholesale arrests, which were generally made on blank warrants.

VIII. THE FINAL STRUGGLE FOR SUPREMACY.

The campaign of 1876 was more excited and bitter than any of its predecessors, and the Kellogg government used its influence with the Federal Administration as far as possible. North Louisiana, in which the population was more largely white and Democratic, was filled with United States Marshals, accompanied by posses of soldiers. Citizens were arrested without cause, carried several hundred miles to New Orleans, and after long delay and great expense, they were set at liberty without even a preliminary hearing. These arrests were made on a great variety of charges. A number of citizens were dragged to jail because they were alleged to have discharged *colored* employees who supported the oppressive Kellogg government.

Gov. Kellogg prepared for the election of 1876 by sending *State and Federal* officials to the parishes to conduct the reg

istration and count the votes. Clover, who had managed a snake show in New Orleans, went to Baton Rouge as supervisor of elections, after having made a written contract with Nash, the Republican candidate for Congress, that he was to receive the place of naval officer for New Orleans, in case he managed the election well. James E. Scott, a clerk in the New Orleans post-office, went to Claiborne as supervisor, counted the vote there, threw out five polls, and returned to New Orleans to fill his clerkship again. James E. Anderson, employed in the United States Custom House, went as supervisor of registration to East Feliciana, and so it was with nearly all the country supervisors. They were mostly Federal employees, who had never before been in the parishes where they were to hold the election.

Many of the New Orleans supervisors, also, were Federal officials. W. J. Moore, of the seventh ward, was not only supervisor, but held two Federal offices at the same time, having a regular clerkship, besides receiving pay as night inspector. P. J. Maloney in the fourteenth, H. Leon in the eighth, Napoleon Underwood in the twelfth, A. J. Brion in the second, R. C. Howard in the fourth, and, indeed, with few exceptions, all the other registration and election officers were Federal officials

It was shown in the case of Anderson of East Feliciana, that a regular contract signed and witnessed, was made between him and the negro candidate for Congress, Nash, as to the election in the parish, over which he had charge, and it is presumable that similar contracts were made with other supervisors.

At no time in the history of Lousiana, not even in the first days of reconstruction, had the Federal Government interfered so unreservedly with state affairs. Federal troops had installed Kellogg, and kept him in office. Federal Marshals and troops were raiding North Louisiana and making wholesale arrests; and Federal officials, clerks in the post-office and custom house, were conducting the registration, and holding the election.

These wrongs, and the use of the United States troops, did *not, however, benefit* the Kellogg government in the least

On the contrary, they aroused the people, and in the election in November, 1876, the Democratic state and national ticket carried Louisiana by an average majority of 8,000.

Then, for the third time, the Returning Board came into play, and the old method was resorted to of throwing out enough polls and parishes to make the state and Legislature Republican. It so happened, however, that the National election depended on the vote of Louisiana, and the proceedings of the Returning Board of 1876 were therefore watched by the whole country, and its history made known. All the facts came out, and the people of the United States then learned how Louisiana elections had been managed in the past. They learned that the election machinery had been placed in the hands of low and mercenary adventurers; that the supervisors of election contracted in advance with the candidates, as to how the votes should be cast; they learned how the returns were "doctored," and how forged returns and affidavits were secured whenever this was necessary. It was shown that George L. Smith, candidate for Congress in the Fourth District, was given blank appointments to all the election offices in the District, and that the returns of DeSota parish were sent privately to him, and examined and doctored before being turned over to the Returning Board; and that the returns of Bossier, Webster and other parishes were similarly opened and doctored—a fact that was developed by a misdate. Ballot-box stuffing, falsification of returns, forgery and other crimes, were clearly shown upon the investigation; but this matters little. The Democrats had carried the state by 8,000 majority, but when the Returning Board got through with its supervisory work, it had manufactured a Republican majority of 9,000, and created a Republican Legislature.

The rival state governments—one headed by Nicholls, elected by the popular vote, and the other by Packard, formerly United States Marshal—both organized in January, *1877, but the* jurisdiction of the Packard government was *restricted to* the State House. From January to March—*for three months*—Louisiana remained in this condition, with *two Governors*, two Legislatures and two Supreme Courts

A conflict was prevented only by the presence in force of United States troops, stationed in the immediate vicinity of the State House. During all this period, the Packard government was in a state of siege. Over a thousand negro adherents of the Packard government lived and ate and slept in the state capitol. The building became extremely filthy and dangerous to the public health, and finally small-pox broke out among the crowded inmates. But the leaders held on, clinging to the hope that the Federal government would again interfere, and, as in the case of Kellogg, induct Packard into office.

After a strained condition which existed for months, and might at any time have precipitated a general riot and even civil war, the president decided to abandon the policy of military interference, and withdraw the troops.

The weakness of the Packard *régime* then became patent. The State Government fell to pieces, the moment the Federal troops were withdrawn. Packard, who claimed to be Governor, left Louisiana never to return; and most of the political gypsies, who, in the sorrowful decade just past, had led the Republican party in its career of spoliation, riot and lawlessness, were scattered far and wide, each resuming his habit to "swing his pot and pitch his tent wherever he saw a prospect of [public] plunder." On the departure of the United States troops, the Republican party of Louisiana was no more.

The Vampire Warmothism

had reduced the assessment or wealth of New Orleans from $146,718,790 at Warmoth's advent, to $88,613,930 at Kellogg's exit, a net decline of $58,104,860 in eight years; while real estate in the country parishes, had shrunk in value from $99,266,839.85 to $47,141,696, or about one-half. During this period, the Republican leaders had squandered nearly one hundred and fifty millions, giving the state little or nothing *to show* therefor. The state debt was increased *more than $40,000,000*, and that of the city about $12,000,000. *Forty per cent.* of the former had been repudiated

and, in the redemption of it with new bonds, many millions had disappeared and been lost to the state. The increase of taxation had been manifold—in many parts eight-fold—reaching 5, 6, 7 and even 8 per cent. in some places. City property depreciated 40, and country 50 per cent. Such is the Republican financial record.

Of course, a standing army—infantry, cavalry and artillery—all at the expense of the victims—was required to defend such despotism, the cost being about a million a year. A navy was needed, too, and the "Ozark" bore the broad pennant, with one other state vessel for the squadron. The viceroy could have, on call, United States troops and United States Deputy Marshals. Federal soldiers were used at the elections, and for making arrests; and a Federal fleet, at times, with spring cables, and guns loaded with death and devastation, menaced New Orleans. In the vice-regal reign, nearly 2000 Federal arrests—mostly of the better classes—were made; but after some imprisonment or restraint, were released as soon as tried. Yet all this failed to keep order; and the state Government twice went to pieces before a popular demonstration.

Warmothism seemed to begin and gradually grow to fatness with wrong-doing; and (possibly designing it), by establishing lotteries and public gambling in 1868, it drew from all abroad the dregs of population, and thereby furnished itself with an ample supply of trained rascals for tools.

For a year, gambling in New Orleans was public, like any other business, and open to minors, women, or any others. Gamblers and their congeners flocked in from everywhere, and the city became like a wild frontier town. Despite Warmothism, however, the moral force of society brought it to an end, except the Louisiana Lottery, which, then chartered for twenty-five years, now exhibits to all the land one of the moral beauties of that *régime*. At all events misgovernment, *lawlessness*, robbery, peculation, bribery and corruption then began to flourish as never before; and Warmoth seemed rather proud of his "bad eminence." With flagitious can-
[illegible]imony as this: "In the Legislature"

of 1870 (which he had elected), he said there was "but one honest man." "Corruption is the fashion," he remarked to a delegation that waited on him; "I do not pretend to be honest, but only as honest as anybody in politics."

An adventurer, without a dollar, he was said to be worth a quarter of a million within a year of his election; and though his salary was $8000 a year, he was, at retiring, reputed to have one of the largest fortunes in Louisiana. His successor, Kellogg, went and did likewise, retiring, it was said, with half a million!

The example of "making haste to be rich" was not followed by their Democratic successors. Nicholls, twice Governor, became steadily poorer while in service. Wiltz, who died in the office, was so poor that his friends had to make a subscription for his widow and children; while Governor S. D. McEnery, after serving seven years, left the gubernatorial chair with greatly diminished means.

The writer begs leave to say, in conclusion, that this sketch of robbery and infamy is based mainly on Republican *data*, as has been indicated; on the statutes and committee reports of the Legislature; on auditors' official documents; on the facts found and stated by Congressional Republican Committees, who were sent to see and report on the workings of reconstruction; on the speeches of leading Republican statesmen, and on the facts given by leading Republican papers.

The writer begs leave to say further, that he belongs to no party, but feels that he has a *right* to plead for his commonwealth, as one of the integers of our political system, and vindicate her rights and immunities, just as he would (regardless of sentiment) those of Massachusetts, Rhode Island, Pennsylvania, or Delaware; for his hope and prayer is that they and all their sisters, old and young, will be, down to the last syllable of recorded time, among "*the several states which may be included within this union*"—to use the words of the compact (Article I.) describing the "essential component parts of the Union," as Hamilton declared the states to be.

B. J. Sage.

CHAPTER XV.

SUNRISE.

PROSPERITY FOLLOWS THE RESTORATION OF GOOD GOVERNMENT.

THE days during which the reconstruction governments ruled in the several Southern states were the darkest that ever shrouded any portion of our country.

The slaughter and the sacrifices during our great civil war were terrible indeed, but those dark days were lighted by the shining valor of the patriot soldier; the storm clouds were gilded with glory.

But there was, in the scenes faintly pictured in the preceding portion of this book, nothing but wretchedness and humiliation, and shame, and crime begetting crime. There was no single redeeming feature, except the heroic determination of the better classes in the several states to restore good government. Their constancy as we have seen was at last, in each case, rewarded.

The results are best shown by figures which we take by permission from the *Manufacturers' Record*, of Baltimore, Md., of December 21, 1889. In a special number of this able paper, the editor has compiled many tables of figures, showing in great detail that the South is now growing more rapidly than the remainder of the country in the production of pig iron, the manufacture of cotton goods, the building of railroads, the building of industrial towns and cities, the mining of coal, the manufacture of lumber, the raising of grain, the establishment of National Banks, and the accumulation of money. The *Record* is not a political paper. The figures were gathered and compiled for business men. The article is headed

THE SOUTH'S REDEMPTION.

FROM POVERTY TO PROSPERITY.

In 1860 the Richest Part of the Country—In 1870 the Poorest—In 1880 Signs of Improvement—In 1889 Regaining the Position of 1860.

Its purpose is to show the comparative progress made North and South during the last decade; and no period could be selected that would more fitly represent the contrast between the South under present auspices and when under reconstruction influences. When 1880 began prosperity was commencing. The night had passed away and the morning of a brighter day was upon us. The Southern States were fast recovering from the immediate blighting effects of misgovernment.

The first table presented is of assessed values:

The assessed value of property in the South, as already stated, was $2,100,000,000 less in 1870 than in 1860, while in the rest of the country there was an increase of over $4,000,000,000 during that decade. Not until about 1876 were there any decided indications of a change for the better in the South. By 1879–80 an improvement was seen, and it is since that time that the most marked progress has been made. That this progress has been phenomenal, and especially when the poverty of this section at that time is taken into account, the statistics given in this issue of the *Manufacturers' Record* will certainly make plain. A comparison of the assessed value of property, by States, in 1880 and 1889, gives the following:

	1880.	1889.	Increase.
Maryland	$459,187,408	$477,398,380	$18,210,972
Virginia	303,997,613	*344,169,473	40,171,860
North Carolina	169,916,907	217,000,000	47,083,093
South Carolina	129,551,624	145,280,343	15,728,343
Georgia	251,424,651	380,289,314	128,864,663
Florida	31,157,846	93,800,000	62,642,154
Alabama	139,077,328	242,197,531	103,120,203
Mississippi	115,130,651	157,830,431	42,699,780
Louisiana	177,096,459	226,392,288	49,295,827
Texas	311,470,736	710,000,000	398,529,264
Arkansas	91,191,653	166,000,000	74,808,347
Tennessee	211,768,438	325,118,836	113,350,398
West Virginia	146,991,740	183,013,737	36,021,997
Kentucky	375,473,041	551,676,267	176,203,227
Total	$2,913,436,095	$4,220,166,400	$1,306,729

The Census report of 1879–80 estimated that the assessed value of property in the South was only 41 per cent. of the true value. On this basis the true value of property in the South in 1880 was $7,105,917,300, and the value at present $10,293,088,700—a gain of over $3,000,000,000.

The editor then gives statistics showing progress in each of the States in everything going to make up the following table; but space will only be taken here to give the summary, as follows:

	1880.	1889. (Partly Estimated.)
Assessed value of property	$2,913,436,095	$4,220,166,400
Railroad mileage	19,431	40,250
Cost of railroads	679,000,000	1,500.000,000
Yield of cotton, bales	5,755,359	7,250,000
Yield of grain, bushels	431,074,630	675,000,000
Number of farm animals	28,754,243	45,592,536
Value of live stock	$91,412,254	569,161,550
Value of *chief* agricultural products . .	571,098,454	850,000,000
Coal mined, tons	6,049,471	22,000,000
Pig iron produced, tons	397,301	1,600,000
Number of cotton mills	161	355
" spindles	667,854	2,035,268
" looms	14,323	45,000
" cotton-seed oil mills	40	213
Capital invested in cotton-seed oil mills .	3,504,000	20,000,000
Number of National Banks	220	472
Capital of National Banks	45,597,730	76,454,510

The figures, however, as to banking, deposits, profits, &c., are so important that they must be given in full. These constitute the most infallible test of the condition of the country. Following is the statement by geographical division:

NORTH, 1879.

No. of Banks.	State.	Capital Stock.	Surplus.	Undivided Profits.	Loans and Discounts.	Individual Deposits.
69	Maine	$10,435,000	$ 2,436,771	$ 1,243,310	$ 14,914,532	$ 8,194,218
47	New Hampshire .	5,830,000	1,080,672	503,860	7,138,376	3,943,933
47	Vermont	8,301,000	1,945,151	557,821	10,080,253	5,037,891
*188	Massachusetts . .	45,105,000	12,613,466	3,223,254	73,313,493	39,314,009
54	Boston	50,500,000	10,616,144	2,247,975	113,176,324	70,727,680
61	Rhode Island . .	20,009,800	3,603,852	1,087,086	26,131,711	8,908,878
84	Connecticut . . .	25,464,620	6,608,169	1,460,611	39,852,931	21,146,646
*242	New York State .	32 897,160	7,704,249	4,477,685	67,210,314	59,339,863
47	New York City .	50,650,000	18 185,383	10,396,427	238,495,325	242,044,721
7	Albany, N. Y. . .	1,800,000	1,4 0,000	192,785	7,388,023	6,110,018
66	New Jersey . . .	12,995,350	3,703,671	1,389,983	26,496,480	24,524,830
*186	Pennsylvania . .	28,946,340	7,074,001	2,547,459	47,729,528	46,928,077
32	Philadelphia . .	17,358,000	7,654,090	1,825,876	54,418,619	57,918,373
22	Pittsburg	9,850,000	3,071,462	618,856	19,665,846	15,714,975
14	Delaware	1,763,985	475,794	138,078	3,317,887	3,0 6,545
1166		$321,905,255	$88,182,881	$31,911,068	$749,329,592	$611,910,667

* Exclusive of reserve cities.

SOUTH, 1879.

TE.	CAPITAL STOCK.	SURPLUS.	UNDIVIDED PROFITS.	LOANS AND DISCOUNTS.	INDIVIDUAL PROFITS.
id	$ 2,331,700	$ 690,815	$ 216,629	$ 3,891,651	$ 3,997,916
re . . .	10,890,330	2,429,744	887,107	23,812,985	17,433,886
Columbia.	252,000	57,000	35,265	242,447	577,871
gton . .	1,125,000	272,500	81,999	1,493,726	1,576,723
. . . .	2,866,400	822,890	319,072	7,446,748	6,69 ,447
rginia . .	1,761,000	435.882	109,873	2,945,985	2, 40,126
arolina .	2,501,000	319,697	214,147	4,187,354	2,883,365
arolina .	2,449,900	368,359	307,057	4,114,719	2,586,176
. . . . .	2,221,000	431,803	179,564	3,692,306	2,012,457
. . . . .	100,000	2,000	3,855	128,556	157,202
a	1,518,000	221,365	143,570	2,236,010	1,318,889
ppi	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
na	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
leans . .	2,875,000	570,000	320,310	7,107,351	6,013,172
. . . . .	1,300,000	278,548	105,638	2,043,984	2,080,993
as	205,000	40,000	10,247	247,877	265,382
ty	7,201,000	1,142,803	347,714	9,460,340	6,112,913
le . . .	2,995,300	369,964	238,257	5,887,105	2,397,716
se	3,005,500	555,939	206,907	6,341,165	6,585,655
	$45,597,730	$8,999,309	$3,727,211	$85,280,309	$64,730,849

WEST, 1879.

. . . . .	$18,761,900	$3,711,760	$1,602,886	$34,274,345	$29,817,294
ati . . .	4,100,000	695,000	666,099	12,532,029	10,004,733
id . . .	3,700,000	760,000	284,586	7,595,258	6,951,195
. . . . .	13,202,500	3,976,906	1,216,376	23,193,224	19,871,023
. . . . .	10,714,600	3,463,483	1,054,599	22,471,899	25,357,048
. . . . .	4,250,000	2,360,000	819,628	23,190,590	23,534,594
n	7,235,000	1,876,122	904,209	14,091,567	12,039,290
. . . . .	2,100,000	715,000	454,021	5,846,403	6,255,835
in	2,400,000	687,872	369,190	6,004,498	6,542,023
see . . .	650,000	220,000	137,755	2,905,709	3,216,896
. . . . .	5,867,000	1,419,101	633,493	11,373,096	11,607,619
ota . . .	5,150,000	937,003	452,233	12,201,167	8,918,149
. . . . .	1,400,000	321,204	231,462	2,311,755	3,127 682
s	2,650,000	758,037	256,676	8,527,611	5,263,591
. . . . .	875,000	193,050	100,763	1,794,360	2,547,782
a	850,000	229,700	164,478	3,193,158	3,723,501
	$83,906,000	$22,324,238	$9,348,454	$191,506,669	$179,278,252

NORTH, 1889.

. . . . .	$10,660,000	$ 2,658,509	$ 1,312,515	$ 20,442,270	$11,533,148
mpshire .	6,317,800	1,545,632	606,318	10,106,803	7,015,622
. . . . .	7,466,000	1,691,177	664,600	12,744,250	6,84 ,125
usetts . .	45,049,430	14,571,525	5,537,831	100,988,977	62,792, 01
. . . . .	51,800,000	13,744,970	5,845,267	147,659,370	102,933 265
sland . .	20,284,050	4,408,363	1,946,724	36,272,869	15,867,302
ont . .	24,024,370	6,867,079	1,76 ,605	46,291,130	32,360,521
rk . . .	34,329,060	11,056,818	6,557,680	101,788,939	92,399,443
rk City .	48,850,000	33,052,906	11,967,798	309,442,460	261,461,362
. . . . .	1,550,000	1,278,500	230,569	8,813,616	7,647,4 9
sey . . .	13,524,640	5,616,351	2,285,794	43,934,984	42,643,459
vania . .	34,162,580	13,321,113	3,370,738	86,451,156	83,: 66,654
phia . .	23,408,000	11,724,303	2,205,712	96,453,861	90,397,808
y . . .	10,430,000	5,162,909	931,298	35,929,121	30,784,775
. . . .	2,133,945	883,450	226,423	5,892,960	4,151,984
	$333,989,915	$127,582,805	$45,549,875	$1,061,812,372	$882,494,77

*Exclusive of reserve cities.

SOUTH, 1889.

NO. OF BANKS	STATE.	CAPITAL STOCK.	SURPLUS.	UNDIVIDED PROFITS.	LOANS AND DISCOUNTS.	INDIVIDUAL DEPOSITS.
*34	Maryland	$ 2,982,000	$ 1,073,789	$ 269,849	$ 8,010,683	$ 7,348,151
17	Baltimore	11,713.260	3,923,600	864,.72	28,829,895	21,411,393
*1	Dist. of Columbia.	252,000	60,000	59,819	321,414	864,065
7	Washington	1,575,000	673,000	159,231	5,401,856	8,639,393
30	Virginia	4,076,500	1,659,919	372,293	12,156,945	10,675,152
19	West Virginia	1,856,000	477,996	90,534	4,311,458	3,470,387
18	North Carolina	2,276,000	586,154	284,414	5,331,796	3,955,276
16	South Carolina	1,798,000	842,500	811,732	5,910,898	3,171,322
27	Georgia	3,661,560	1,127,914	539,980	8,037,631	5,392,124
13	Florida	950,000	130,650	72,077	2,220,063	2,598,516
25	Alabama	3,891,100	937,888	442,486	7,691,009	6,008,817
12	Mississippi	1,130,000	311,300	72,258	2,539,137	1,849,971
*5	Louisiana	500,000	108,000	32,271	986,886	937,760
9	New Orleans	3,125,000	1,550,125	334,198	11,315,487	12,544,317
115	Texas	13,408,690	3,156,701	906,447	25,319,042	18,002,037
8	Arkansas	1,200,000	237,000	43,071	2,787,685	2,273,113
45	Tennessee	7,905,000	1,742,762	787,529	19,214,970	14,400,829
*62	Kentucky	10,002,900	2,334,765	632,465	18,389,361	11,283,524
9	Louisville	4,151,500	1,003,928	341,653	11,011,161	4,268,055
472		$76,454,510	$21,937,991	$7,136,579	$179,787,377	$139,098,232

WEST, 1889.

*197	Ohio	$24,404,000	$6,095,999	$1,796,281	$55,868,869	$47,431,130
13	Cincinnati	8,900,000	2,068,000	575,999	23,826,745	18,845,365
9	Cleveland	6,750,000	1,064,000	523,881	17,844,736	13,488,347
97	Indiana	12,284,500	3,811,589	1,264,735	28,683,659	28,581,945
*168	Illinois	15,204,000	4,997,209	1,970,331	40,928,853	30,311,620
19	Chicago	15,550,000	5,755,000	1,901,451	70,104,937	54,914,859
*104	Michigan	11,244,600	2,591,032	1,212,786	29,953,092	24,186,299
8	Detroit	4,400,000	552,000	413,599	13,892,833	9,829,096
*58	Wisconsin	4,925,000	1,464,834	502,935	15,946,304	15,143,163
3	Milwaukee	850,000	390,000	221,842	4,408,915	5,185,933
132	Iowa	10,540,000	2,883,803	985,612	25,809,477	20,663,814
57	Minnesota	14,145,000	2,641,922	1,431,927	37,273,270	26,837,605
*39	Missouri	2,882,190	625,147	145,722	5,644,919	5,585,445
5	St. Louis	4,400,000	840,000	283,548	10,419,579	8,493,082
10	Kansas City	1,800,000	846,500	223,286	18,030,415	11,932,978
3	St. Joseph	1,000,000	81,500	23,035	2,972,373	2,599,573
162	Kansas	13,010,100	1,911,453	702,983	22,454,043	18,042,698
*107	Nebraska	7,285,000	1,261,109	442,680	16,111,975	11,344,093
7	Omaha	3,300,000	457,500	143,065	10,143,532	8,493,880
1198		$162,574,390	$40,338,597	$14,765,689	$4 0,318,506	$370,910,925

In order to make still clearer the relative progress of *the States treated of in this book* and the other States comprised in the above tables the former and the latter are grouped below. The figures are so remarkable that attention is here called to the fact that the editor has taken them from the *official* reports.

The term Northern and Western applies to the following [redacted]Maine, New Hampshire, Vermont, Massachusetts,

* Exclusive of reserve cities.

Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Kansas, Nebraska, and District of Columbia; and the term Southern applies to the following States: Alabama, Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, West Virginia, Tennessee, Arkansas, Texas and Missouri.

NO. OF BANKS.	CAPITAL STOCK.	SURPLUS.	UNDIVIDED PROFITS.	LOANS AND DISCOUNTS.	DEPOSITS.
N. rthern and Western States, 1879.					
1895	$436,556,785	$114,390,644	$42,578,353	$974,785,259	$814,894,621
Northern and Western States, 1889.					
2592	$517,468,775	$174,797,337	$61,886,252	$1,546,027,962	$1,249,439,202
Percentage of Increase.					
37	19	53	45	68	53
Southern States, 1879.					
151	$24,852,200	$5,115,724	$2,408,378	$51,331,361	$41,025,137
Southern States, 1889.					
399	$55,850,040	$15,062,056	$5,564,881	$144,890,293	$113,889,729
Percentage of Increase.					
164	125	194	131	182	177

This comparison shows that while the percentage of increase of banks was, in the North and West, 37 per cent., it was, in the South, 164; that in the former the increased percentage of capital stock was 19 against 125 in the latter; of surplus 53 against 194; undivided profits, 45 against 131; loans and discounts 68 against 182, and deposits 53 against 177; the average percentage of increase in all these items being about threefold greater in the South than in the remainder of the States presented.

The facts stated in the preceding portions of this book and those shown by these figures present, it is believed, the most startling contrast between the results of good government and bad that can be found in the history of mankind. Statistics, however, do not always impress the mind as vividly as the personal evidence of an intelligent witness. There is no more competent observer than Vice-President Morton. On his return from a recent trip to the South, he talked to a reporter *of the Washington* Post. The whole interview may be in- *teresting to one* who wishes to understand the present condi- *tion.*

"It was my first trip along the South Atlantic coast," he said, "although many years ago I visited New Orleans, and to say that I thoroughly enjoyed the trip would be to very mildly characterize the pleasure I experienced. Although I went among the people who were perfect strangers to me, and with whose interests I had not been closely identified, I met with a most cordial greeting everywhere, and, indeed, could not begin to accept all the invitations which were showered upon me. If I had had the time I would have gone to Mobile, Ala., Thomasville, Ga., and other places from which invitations came, but there had to be a limit to travel."

"What feature of this trip most impressed you?"

"I think that the wonderful and rapid recovery of the South from the devastation of the war is most amazing and must strongly impress every one who knows what the South experienced and realizes what it is to-day. I am frank to say that I do not believe a traveler going through the South, if unaware of the struggle of twenty-five years ago, would notice any signs resulting from that struggle. Of course this recovery is not equal at all points. Some cities are more backward than others, and yet I believe that all cities are feeling the general prosperity which is now the happy condition of the South. Atlanta, Savannah, Birmingham, and Jacksonville are particularly flourishing. Jacksonville has in four years increased its population from 35,000 to 60,000. This is marvellous growth."

"Do the Southern people still talk of the war?"

"I think not, except to refer to it as a basis of comparison by which they emphasize the changes which have been made since it closed, and this comparison is with them a natural matter of pride. Of course, I speak only for the cities. I did not go into the country. In the cities, however, the Southern man has his mind on the future rather than on the past."

"*There* is considerable Northern capital invested in the *development* of the South?"

"*Beyond* a doubt."

"*And do* the Northerners and the Southerners work together *without* friction?"

"I think they do. Certainly among the business men, so far as I could see, Democrats and Republicans were on excellent terms. There is a common bond," continued Mr. Morton, with a smile, "in making money, and that is what the South is now successfully endeavoring to do. Northern people are welcomed in the South, especially if they are disposed to place their shoulders to the wheel in helping to develop the material industries of that section. The Southerner may not agree with his Northern visitor politically, and he may have different views on other questions, but he is heart and soul with him on the all-absorbing question of development. Yes, there can be no question but that the Northern man is sure of a cordial welcome to the South."

"Then the Southerners are not letting Northern men do all the work?"

"Not by any manner of means. They are also up and alive and doing."

"Mr. Morton said that the Florida hotels were now full of tourists from the North. Jacksonville is crowded, and all the St. Augustine hotels are full. A new hotel, to accommodate 500 or 600 guests, is now being erected in Tampa, and will be ready next season. In conclusion Mr. Morton again referred with the heartiest appreciation to the marked cordiality which had been shown him, and expressed the firm belief that the present era of prosperity in the South was not based on a fictitious foundation, but was the result of natural and lasting causes."

All these facts cannot be answered by citing and collating isolated cases of wrong.

The political earthquake that convulsed the Southern States for years, some of them from 1865 to 1876, of course left great fissures, some of which are not yet closed; but the kindly processes of nature are carrying on the work of restoration.

It was and is the misfortune of the Southern people to have to deal with the problems arising out of race prejudices. *The negro had* neither the will nor the power to resist the *forces which* arrayed him against his late master, and the *solidification* of his vote, by those who were to profit by

meant, of course, a black man's party; for its majority sentiment determines the complexion of every political party. The domination of the black man's party, officered as it was, meant ruin. To avert ruin white men united; and then came a struggle, the issue of which was in all the States the same. It could not anywhere be doubtful. The race against which the negro had allowed himself to be arrayed has never yet met its master. It could not go down before the African.

No true friend of the colored man would, except in ignorance, precipitate such a conflict.

But victor though the white man was, no one could regret the enforced conflict more than did the people of the South. And they set to work at once to make a kindly use of their victories. Under the laws passed by Southern white men the negroes in every Southern State are far more prosperous than they ever were under the rule of those who claimed to be their especial friends.

There is no large body of men of African descent anywhere in the world superior in morals, equal in industry and intelligence, or as well to do as the negroes in the Southern States of this Union. In everything going to make up a prosperous and happy career their condition is infinitely better than that of their brethren in such countries as Hayti, where the colored man reigns supreme. And yet there are those who seem to think it an especial duty to foment among these colored people a spirit of strife and discontent. There is none of this spirit among the masses of their white fellow-citizens in the South. They understand well enough that the one condition upon which prosperity can be hoped for is peace and not strife between the races. They know full well, too, that the laborer will not be valuable either as a citizen or a worker unless he is contented, and that he will not be content unless he is fairly treated. So in every State in the South the effort is being made, and successfully, too, to better the condition of the negro, to train him in the duties of citi-

zenship. These States are expending many millions per *annum for* educational purposes. Following is a table taken *from the Report* of the U. S. Commissioner of Education for *889. It comprises* all of the States of the Union which *ve made separate reports* for white and colored schools:

PUBLIC SCHOOLS FOR THE COLORED RACE.

TABLE 97.—*Colored School Population, Enrollment and Average Attendance for 1887–88.*

STATE.	DATE OF CENSUS.	AGE OF CHILDREN ENUMERATED.	POPULATION OF SCHOOL AGE.		ENROLLMENT.	AVERAGE ATTENDANCE.
			COLORED.	TOTAL.		
Alabama	1887	7–21	212,821	485,551	a98,396	a63,995
Arkansas	1888	6–21	99,784	388,165	50,570	....
Delaware*	1886	6–21	b5,750	b42,218	b3,563	....
District of Columbia	1888	6–17	18,200	51,500	12,796	9,538
Florida	1888	6–21	33,596	63,848	*31,566	....
Georgia	1888	6–18	267,657	560,281	120,553	....
Indiana	1888	6–21	17,750	756,989	8,498	....
Kentucky*	1886	6–20	102,647	641,638	41,952	c23,195
Louisiana	1887	6–18	d151,384	335,603	46,912	34,262
Maryland	1880	5–20	68,409	295,215	32,536	14,221
Mississippi*	1885	5–21	269,099	471,332	143,825	85,996
Missouri*	1887	6–20	47,603	838,812	30,469	....
North Carolina	1888	6–21	216,837	580,819	125,884	75,230
South Carolina	1880	6–18	180,495	281,684	103,334	74,075
Tennessee*	1887	6–21	161,393	640,014	80,727	56,332
Texas	1888	8–16	135,184	525,110	84,463	....
Virginia	1885	5–21	265,249	610,271	118,831	64,422
West Virginia	1888	6–21	10,426	256,350	6,130	3,557
Total	....	....	2,264,344	7,825,400	1,140,405	....

*For 1886–7.
a Exclusive of city schools. These figures seem to be those of 1886–7.
b Exclusive of Wilmington, where there are four schools for colored children.
c For counties only.
d For 1885–86.

When the negro was a slave the white men of the South made it unlawful to teach him to read. This was to prevent his learning the lesson of insurrection which certain writers in the abolition press were seeking to instil into his mind. The Southern whites then desired to keep the negro in slavery. Now that he is free these same whites are taxing themselves to fit him for freedom.

Let the reader ponder this fact and then answer to himself the question whether the Congress of the United States can wisely enact any law that would tend to revive the conflict of races in the South. Is not the problem of the hour being worked out by the people most interested in its correct solution? Are they not proceeding in the only possib

manner? No such problem can be solved at once. Time, and patience, and tact, and experience, gathered on the spot and applied to legislation by those most interested, all these are necessary to its solution.

Any legislation at Washington, based upon the assumption that the negro is wronged and having for its object the ostensible purpose of righting the assumed wrongs by arraying the negro again in solid phalanx against the white man in a contest for supremacy in governmental affairs may result in a catastrophe more appalling than misgovernment, for it would tend towards a conflict of races in the South.

When the reconstruction laws gave the negro the ballot the party that passed these laws claimed of the colored man his vote and secured it. The negroes went to the polls in solid masses for that party. We have seen the results. Wherever they got power their leaders robbed and plundered. Wherever the negro majorities were greatest the degradation of society was most complete and despoliation the most absolute—as in South Carolina and Louisiana. If Congress shall again take control of suffrage the negro will be again appealed to. The party that interferes in his behalf will again claim title to all his ballots, will again urge that he muster all his forces under its banner. The theory upon which these laws are urged undoubtedly must be that this appeal would again succeed; and if it should, then negro majorities would again dominate South Carolina, Mississippi and Louisiana, as well as also many of the richest counties in each of the former slave states.

To the people whose lives and fortunes would thus be imperiled, how appalling the prospect! And not only the properties of Southern, but of Northern men also—railroad stocks, state bonds, city bonds, county bonds, mining and manufacturing interests—all would be in peril. Nay, if the program should be carried out, as it is claimed it would be, with the United States army to enforce the law, and negro *domination* should again be forced at the South, many a *princely fortune* would vanish into air. It is amazing that *capitalists,* proverbially sagacious in their forecasts, should be *so quiescent* and complacent in view of this threatened legis

lation. The Southern people themselves look on with the profoundest concern. They judge the future by the past. They themselves passed through the scenes that are only faintly pictured in the preceding pages. Experience has demonstrated to them, what reason itself would teach, that Federal control over election laws and election methods, interference by the General Government, expressly in favor of the blacks and against the whites, would tend to array one race against the other in bitter hostility, that such hostility in a contest for supremacy in affairs of government would engender race conflicts and that race conflicts would furnish an excuse for military interference.

It will not answer to say that conditions have changed. There will be Northern adventurers and native whites in great plenty to lead the negroes. No mass of voters able to put men in power have ever yet lacked for leaders, and it matters not what prejudices the voters have, they will find men to pander to them, and, how great soever their cupidity may be, their chosen representatives will answer to the demands that may be made upon them. No section of our country can impute to any other the exclusive possession of bad men. The North never showed an adventurer who could overmatch Moses or Crews of South Carolina and every other Southern state can point to similar examples.

As to whether the attempt to put the South under the dominion of the negro again would succeed, the history of the past may furnish an instructive lesson. Would the army be used more freely than it was in South Carolina, Mississippi or Louisiana, and would the results now be different?

There was a time, just after the close of our Civil War, when Northern capitalists began to look upon the South as a field for investments, but after the carpet-bag governments had had opportunity fully to demonstrate their capacity for evil not a single dollar for investment went into that region for years. Years had elapsed even after the overthrow of *these governments,* before confidence was restored. Southern *men they were,* who, with their own capital, demonstrated *the world the* resources of the South. At last the North

ceased to doubt either the stability of state governments or the values of Southern properties; and now Northern capital is flowing southward in a steady stream. It is said that to one town in Alabama—now not more than eighteen months old—investors have come from thirty-two of the states of the Union. The flow has only fairly begun. If not checked by some untoward movement it will steadily increase in volume. There is no finer field for investing the surplus capital of the North. There is no better customer for the Northern merchant than the Southerner. There is no more steady demand for the products of the Northwest than comes from the South; and no one can deny that the continued prosperity of that section is necessary to the prosperity of the North and West.

How shall Southern prosperity be continued except by continuing the conditions which brought it about? The chiefest of these are honest, economical state governments. These secure to labor its reward, and to capital its profit.

Our ancestors believed that local self-government was the greatest of blessings. That was the foundation stone upon which was builded all our institutions of government. The unwisdom and peril of departing from this theory has never had a more convincing illustration than in the reconstruction laws of Congress and the results which followed.

Certainly the masses of the people of the distant North, if they had understood the situation at the South as the people there did, and if they could have foreseen the consequences of the reconstruction laws, would not have sanctioned their passage as they did. Intelligent Americans cannot be misled as to facts transpiring in their midst. On these their judgment is always to be trusted; but there is always danger of mistake when voters in any one part of the Union undertake to pass upon questions peculiar to a far-distant section of the country. Herein lies the distinguishing excellence of our complex form of government. Local questions are left to be determined by those most interested in correct conclusions and best acquainted with the facts out of which the questions arise.

It is sincerely to be hoped that the American people may not need to take another lesson in the school of Reconstruction

HILARY A. HERBERT

APPENDIX A.

MARCH 2, 1867.

AN ACT TO PROVIDE FOR THE MORE EFFICIENT GOVERNMENT OF THE REBEL STATES.

Whereas no legal state governments or adequate protection for life or property now exists in the rebel states of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas; and whereas it is necessary that peace and good order should be enforced in said states until loyal and republican state governments can be legally established; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That said rebel states shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of state authority with the exercise of military authority under this act, shall be null and void.

SEC. 4. *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessa

delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel states shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said state, twenty-one years old and upward, of whatever race, color, or previous conditions, who have been resident in said state for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said state, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said state shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said state: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel states, nor shall any such person vote for members of such convention.

SEC. 6. *And be it further enacted*, That, until the people of said rebel states shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control or supersede the same; and in all elections to any office under such provisional governments all persons shall *be entitled to* vote, and none others, who are entitled to vote, under *the provisions* of the fifth section of this act; and no person shall be *eligible to* any office under any such provisional governments who *would be disqualified* from holding office under the provisions of the *third article of* said constitutional amendment.

APPENDIX B.

MARCH 23, 1867.

AN ACT SUPPLEMENTARY TO AN ACT, ENTITLED "AN ACT TO PROVIDE FOR THE MORE EFFICIENT GOVERNMENT OF THE REBEL STATES," PASSED MARCH SECOND, EIGHTEEN HUNDRED AND SIXTY-SEVEN, AND TO FACILITATE RESTORATION.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by Act entitled, "An act to provide for the more efficient government of the Rebel States," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the state or states included in his district, which registration shall include only those persons who are qualified to vote for delegates by the Act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the state of ———; that I have resided in said State for ——— months next preceding this day, and now reside in the county of ———, or the parish of ———, in said state (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States nor for felony committed against the laws of any state or of the United States; that I have never been a member of any State Legislature, nor held any executive or judicial office in any state and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any state, *to support the* Constitution of the United States, and afterwards *engaged in* insurrection or rebellion against the United States, *given aid or* comfort to the enemies thereof; that I will faithfully *support the* Constitution and obey the laws of the United States

and will, to the best of my ability, encourage others so to do, so help me God." Which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any state, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such state loyal to the Union, said convention in each state, except Virginia, to consist of the same number of members as the most numerous branch of the State Legislature of such state, in the year eighteen hundred and sixty, to be apportioned among the several districts, counties or parishes of such state by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the Legislature of said state in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That at said election the registered voters of each state shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a Convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a Convention." The persons appointed to superintend said election, and to make returns of the vote given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned, shall ascertain and declare the total vote in each state for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many Boards of Registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns, he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention the commanding general, within sixty days from the date of elect-

shall notify the delegates to assemble in convention at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a Constitution and civil government according to the provisions of this act and the act to which it is supplementary; and when the same shall have been so framed, said Constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the Constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one-half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and, if not in session, then immediately upon its next assembling; and if it shall, moreover, appear to Congress that the election was one at which all the electors in the State had an opportunity to vote freely and without restraint, fear or the influence of fraud, and if the Congress shall be satisfied that such Constitution meets the approval of a majority of all the qualified electors in the state, and if the said Constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said Constitution shall be approved by Congress, the state shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

SEC. 6. *And be it further enacted*, That all elections in the state mentioned in the said "Act to provide for the more efficient government of the rebel states," shall, during the operation of said act, be by ballot, and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled, "An act to prescribe an oath of office:" *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under or by virtue of this act, shall be paid out of any moneys in the treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for e

state shall prescribe the fees, salaries and compensation to be paid to all delegates and other officers and agents herein authorized, or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such state as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean "section."

APPENDIX C.

ANNOUNCING THAT THE REBELLION HAS ENDED, APRIL 2d, 1866.

Whereas by proclamations of the fifteenth and nineteenth of April thousand eight hundred and sixty-one, the President of the ted States, in virtue of the power vested in him by the Constitu- and the laws, declared that the laws of the United States were osed, and the execution thereof obstructed in the states of South olina, Georgia, Alabama, Florida, Mississippi, Louisiana and as, by combinations too powerful to be suppressed by the ordinary se of judicial proceeding, or by the powers vested in the marshals aw;

nd whereas by another proclamation made on the sixteenth day ugust, in the same year, in pursuance of an act of Congress oved July thirteenth, one thousand eight hundred and sixty-one, inhabitants of the states of Georgia, South Carolina, Virginia, h Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, issippi and Florida, (except the inhabitants of that part of the of Virginia lying west of the Alleghany Mountains, and to such r parts of that state and the other states before named as might ntain a loyal adhesion to the Union and the Constitution, or nt be from time to time occupied and controlled by forces of the ed States engaged in the dispersion of insurgents) were declared e in a state of insurrection against the United States;

nd whereas by another proclamation of the first day of July, one sand eight hundred and sixty-two, issued in pursuance of an act ongress, approved July seventh, in the same year, the insurrection declared to be still existing in the states aforesaid, with the ex- ion of certain specified counties in the state of Virginia;

nd whereas by another proclamation made on the second day of il, one thousand eight hundred and sixty-three, in pursuance of act of Congress of July thirteenth, one thousand eight hundred sixty-one, the exceptions named in the proclamation of August enth, one thousand eight hundred and sixty-one, were revoked, *the inhabitants* of the states of Georgia, South Carolina, North na, Tennessee, Alabama, Louisiana, Texas, Arkansas, Missi Florida and Virginia, (except the forty-eight counties of V

ginia designated as West Virginia, and the ports of New Orleans, Key West, Port Royal, and Beaufort, in South Carolina) were declared to be still in a state of insurrection against the United States.

And whereas the House of Representatives, on the twenty-second day of July, one thousand eight hundred and sixty-one, adopted a resolution in the words following, namely;

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States, now in revolt against the constitutional government, and in arms around the Capital; that in this national emergency Congress, banishing all feelings of passion or resentment, will recollect only its duty to the whole country; that this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those states; but, to defend and maintain the supremacy of the Constitution and to preserve the Union, with all the dignity, equality and rights of the several states unimpaired; that as soon as these objects are accomplished the war ought to cease."

And whereas the Senate of the United States on the twenty-fifth day of July, one thousand eight hundred and sixty-one, adopted a resolution in the words following, to wit:

"*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern states, now in revolt against the constitutional government, and in arms around the Capital; that in this national emergency, Congress, banishing all feeling of mere passion or resentment will recollect only its duty to the whole country; that this war is not prosecuted on our part in any spirit of oppression nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those states, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality and rights of the several states unimpaired; that as soon as these objects are accomplished, the war ought to cease."

And whereas these resolutions though not joint or concurrent in form, are substantially identical, and as such may be regarded as having expressed the sense of Congress upon the subject to which they relate;

And whereas by my proclamation of the thirteenth day of June last, the insurrection in the state of Tennessee was declared to have been suppressed, the authority of the United States therein to be undisputed and such United States officers as had been duly commissioned to be in the undisputed exercise of their official functions;

And whereas there now exists no organized armed resistance of *misguided citizens* or others to the United States in the states of *Georgia, South* Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi and Florida, and the law *can be sustained* and enforced therein by the proper civil authori

state or Federal, and the people of the said states are well and loyally disposed, and have conformed or will conform in their legislation to the condition of affairs growing out of the amendment to the Constitution of the United States prohibiting slavery within the limits and jurisdiction of the United States;

And whereas in view of the before recited premises, it is the manifest determination of the American people that no state of its own will, has the right or the power to go out of, or separate itself from, or be separated from the American Union, and that, therefore, each state ought to remain and constitute an integral part of the United States;

And whereas the people of the several before mentioned states, have in the manner aforesaid, given satisfactory evidence that they acquiesce in this sovereign and important resolution of national unity:

And whereas it is believed to be a fundamental principle of government that people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends or else they must be held by the absolute military power, or devastated, so as to prevent them from ever again doing harm as enemies which last named policy is abhorrent to humanity and freedom;

And whereas the Constitution of the United States provides for constituent committees only as states and not as territories, dependencies, provinces, or protectorates;

And whereas such constituent States must necessarily be and by the Constitution and laws of the United States are made equals and placed upon a like footing as to political rights, immunities, dignity, and power, with the several states with which they are united;

And whereas the observance of political equality as a principle of right and justice is well calculated to encourage the people of the aforesaid states to be and become more and more constant and persevering in their renewed allegiance:

And whereas standing armies, military occupation, martial law, military tribunals, and the suspension of the privilege of the writ of *habeas corpus* are, in time of peace, dangerous to public liberty, incompatible with the individual rights of the citizen, contrary to the genius and spirit of our free institutions, and exhaustive of the national resources, and ought not therefore, to be sanctioned or allowed, except in cases of actual necessity for repelling invasion or suppressing insurrection or rebellion;

And whereas the policy of the government of the United States, from the beginning of the insurrection to its overflow and final suppression, has been in conformity with the principles herein set forth and enumerated:

Now, therefore, I, Andrew Johnson, President of the United States, do hereby *proclaim* and declare that the insurrection which heretofore existed in the states of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, and Florida, is at an end, and is henceforth to be so regarded.

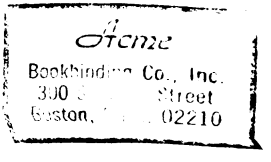
In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, the second day of April, in the year of our Lord, one thousand eight hundred and sixty-six, and of the Independence of the United States of America the ninetieth.

ANDREW JOHNSON.

By the President,

WM. H. SEWARD, Secretary of State.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